

Order 175-15/16

Passage as an Emergency: 7-0 (Mavodones, Duson absent) on 3/7/2016 Effective 3/7/2016

ETHAN K. STRIMLING (MAYOR)  
BELINDA S. RAY (1)  
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**CITY OF PORTLAND**  
**IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)  
JILL C. DUSON (A/L)  
JON HINCK (A/L)  
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING PORTLAND TECHNOLOGY PARK CONDOMINIUM  
DECLARATION**

**ORDERED,** that the Condominium Declaration for the Portland Technology Park is hereby approved in substantially the form attached hereto as Attachment 1; and

**BE IT FURTHER ORDERED,** that the City Council hereby authorizes the City Manager or his or her designee to execute said documents and any other related documents necessary or convenient to carry out the intent of said documents; and

**BE IT FURTHER ORDERED,** that this order is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately and thereby not delay the closing for the sale of this property.

**DECLARATION OF CONDOMINIUM**  
**PORTLAND TECHNOLOGY PARK CONDOMINIUM**

This Declaration of Condominium is executed as of this 1st day of \_\_\_\_\_, 2016 by the City of Portland, a municipality existing under the laws of the State of Maine, pursuant to the Maine Condominium Act, Chapter 31 of Title 33 of the Maine Revised Statutes of 1964, as amended, 33 M.R.S.A. §1601-101 et seq. (hereinafter the "Act").

**ARTICLE I: CREATION OF CONDOMINIUM; DEFINED TERMS**

A. Declaration of Property. The City of Portland, a municipality existing under the laws of the State of Maine (hereinafter the "Declarant"), with an address of 389 Congress Street, Portland, Maine, owner in fee simple of the land described in Schedule A annexed hereto located in the City of Portland, County of Cumberland and State of Maine (hereinafter the "Land"), hereby submits the Land, together with all buildings, improvements, easements, rights, privileges and appurtenances now or hereafter thereon or pertaining thereto (hereinafter the "Property") and together with the rights and easements described in Schedule A hereto and subject to all covenants, restrictions, and easements described or referred to in Schedule A, to the provisions of the Act, as amended from time to time. The Declarant hereby declares and creates with respect to the Property a condominium, known as Portland Technology Park Condominium (hereinafter the "Condominium"). The Property is depicted on the Condominium Plat of Portland Technology Park Condominium prepared by SGC Engineering, LLC dated March 17, 2014, as revised \_\_\_\_\_ (hereinafter the "Plat"), which Plat is recorded in the Cumberland County Registry of Deeds. A reduced true copy of the Plat is attached to this Declaration as Schedule B. The Property shall hereafter be held, sold and conveyed subject to the terms, provisions, conditions, covenants, easements and restrictions set forth in this Declaration of Condominium, as amended from time to time (hereinafter the "Declaration") and in the Act, which shall run with the Property and bind and inure to the benefit of all owners of the Property or any portion thereof, their respective heirs, successors and assigns. Pursuant to the Act, Portland Technology Park Condominium Association, a Maine nonprofit corporation under Title 13-B of the Maine Revised Statutes of 1964, as amended (hereinafter the "Association") shall be the Unit Owners' Association under the Act.

B. Defined Terms. Capitalized terms used in this Declaration shall have the meanings specified hereinabove or hereinbelow or, if not otherwise defined in this Declaration, as it may be amended from time to time, or on the Plat, shall have the same meanings as specified in the Act:

(1) "Allocated Interests" mean: (a) the Common Element Interest, (b) the Common Expense Liability, and (c) the votes in the Association, allocated to each Unit pursuant to this Declaration.

(2) "Assignable Limited Common Elements" has the meaning provided in Article IV(C) of this Declaration.

(3) "Association" means the Portland Technology Park Condominium Association, which is the association of the Unit Owners organized pursuant to Section 1603-101 of the Act as a nonprofit corporation under the Maine Nonprofit Corporation Act.

(4) "Building(s)" means the buildings now existing or hereafter erected on the Land within the boundaries of a Unit, as well as other improvements comprising a part of the Buildings or intended to be

used for purposes incidental to the use of a Building.

(5) "Bylaws" mean the Bylaws of the Association as adopted pursuant to the Act and this Declaration for the regulation and management of the Property, including such amendments thereof as may be adopted from time to time.

(6) "Common Elements" mean all portions of the Condominium other than the Units.

(7) "Common Element Interest" has the meaning provided in Article IV(E) of this Declaration.

(8) "Common Expenses" mean expenditures made by or financial liabilities of the Association together with any allocation to reserves and include, but are not limited to, (a) the cost of maintenance, management, operation, repair, renovation, restoration and replacement of the Common Elements and such parts of the Units as to which pursuant to this Declaration it is the responsibility of the Association to maintain, repair and replace, (b) the cost of all insurance premiums on all policies of insurance required to be or which have been obtained by the Executive Board pursuant to the provisions of this Declaration and the fees and disbursements of the Insurance Trustee, if any, (c) such amounts as the Executive Board may deem necessary for general operating reserve funds, reserve funds for replacements and such other reserve funds as the Executive Board may periodically establish, (d) such amounts as the Executive Board may deem necessary to compensate for any deficits in receipts over expenses for previous periods of time, (e) the charges and fees for energy, electricity, heat, water, gas and sewer services and any other utilities furnished to the Condominium to the extent not separately metered to individual Units and charged to individual Unit Owners; and (f) such other costs and expenses that may be declared by the Act, this Declaration, the Bylaws, or resolution or agreement by the Executive Board or Unit Owners to be Common Expenses of the administration, operation, maintenance and repair of the Condominium and the Property and the rendering of all related services to Unit Owners.

(9) "Common Expense Liability" has the meaning provided in Article VI(A) of this Declaration.

(10) "Condominium Documents" mean this Declaration, the Plat, the Bylaws and any Rules and Regulations adopted pursuant thereto by the Executive Board, as amended from time to time.

(11) "Declarant" means the City of Portland, a municipality existing under the laws of the State of Maine, its successors and assigns and all successors to any Special Declarant Rights hereunder.

(12) "Declarant Control Period" means the entire time period which extends from the date of the recording of this Declaration until the earlier of (a) seven (7) years following the conveyance of the first Unit to a Purchaser, or (b) sixty (60) days after the conveyance to Purchasers of seventy-five percent (75%) of the Units, including any Units which Declarant has reserved the Development Rights to create.

(13) "Development Rights" has the meaning specified in Article V of this Declaration and Section 1601-103(11) of the Act.

(14) "Eligible Mortgage Holder" means the holder of record of a recorded first Mortgage on a Unit in the Condominium which has delivered written notice to the Association by prepaid United States mail, return receipt requested, or by delivery in hand securing a receipt therefor, stating the name and address of such holder, the name and address of the Owner of the Unit encumbered by such Mortgage, the identifying number of such Unit, and containing a statement that such Mortgage is a recorded first mortgage.

(15) "Executive Board" means the Executive Board or Board of Directors of the Association authorized to act pursuant to this Declaration and the Act on behalf of the Association.

(16) "Insurance Trustee" has the meaning provided in Article XI of this Declaration.

(17) "Limited Common Elements" mean those portions of the Common Elements the exclusive use of which is reserved as an appurtenance to one or more, but fewer than all, of the Units as allocated pursuant to this Declaration.

(18) "Limited Common Expenses" mean the Common Expenses for services benefiting fewer than all the Units, which are assessed pursuant to this Declaration exclusively against the Units benefited in accordance with Section 1603-115(c)(2) of the Act pursuant to Article IV(K) hereof.

(19) "Mortgage" means a recorded mortgage or deed of trust encumbering a Unit in the Condominium held by a Mortgagee; "Mortgagee" means the holder of a recorded Mortgage or deed of trust encumbering a Unit in the Condominium.

(20) "Recorded" means that an instrument has been duly entered of record in the Cumberland County Registry of Deeds.

(21) "Special Declarant Rights" has the meaning provided in Article V of this Declaration and Section 1601-103(25) of the Act.

(22) "Unit" means a part of the Property designated for separate ownership or occupancy, the boundaries of which are described in Article III and shown on the Plat.

## ARTICLE II: IDENTIFICATION AND LOCATION OF CONDOMINIUM; ASSOCIATION

The name of the Condominium is Portland Technology Park Condominium. The name of the Association organized under the Act is Portland Technology Park Condominium Association. The Condominium is located in the City of Portland, County of Cumberland and State of Maine (which location is more particularly described in Schedule A hereto). The address of the Condominium is 300 Rand Road, Portland, Maine.

## ARTICLE III: DESCRIPTION OF PROPERTY AND UNITS

A. Description of the Property. A legally sufficient description of the Property included in the Condominium is set forth in Schedule A attached hereto and made a part hereof.

B. Maximum Number of Units. Declarant has created 7 Units pursuant to this Declaration, which is the maximum number of Units that the Declarant has the right to create in the Condominium.

C. Description and Boundaries of Units. The Unit numbers, the location of Units created by this Declaration and the dimensions of the vertical boundaries of each Unit are shown on the Plat. The boundaries of each Unit created by this Declaration are shown on the Plat and are described as follows:

(i) Horizontal Boundaries: The Units shall have no horizontal boundaries.

(ii) Vertical (Parametric) Boundaries: The vertical boundaries of each Unit are as shown on the Plat.

Each Unit includes the space within the Unit boundaries and any Buildings and other improvements lying within the boundaries described in subparagraph (ii) above. If any chute, flue, duct, wire, conduit, bearing

wall, bearing column or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated solely to that Unit, and any portion thereof serving more than one Unit or any portion of the Common Elements is a part of the Common Elements. Subject to the foregoing provisions, all spaces, interior partitions and other fixtures and improvements within the boundaries of a Unit are a part of the Unit.

A list of all Unit numbers, locations (all as shown more fully on the Plat), and Common Element Interests and Common Expense Liability and votes in the Association appurtenant to each Unit is attached hereto as Schedule C, and such Allocated Interests are subject to change in the circumstances and manner described in Schedule C hereto.

D. Subdivision or Relocation of Unit Boundaries. Subject to applicable provisions of this Declaration, applicable law and environmental, subdivision and land-use ordinances and regulations, the subdivision of Units and/or relocation of boundaries between Units will be permitted at the expense of the Unit Owners of the Unit or Units to be so subdivided and the boundaries of which are to be so relocated, upon the prior written approval of the Association and subject to compliance with the provisions therefor set forth in Section 1602-113 and Section 1602-112 of the Act.

E. Alteration of Partitions. Subject to applicable provisions of law, ordinances, and land-use regulations, a Unit Owner may, after acquiring an adjoining Unit or adjoining part of an adjoining Unit, remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a Common Element, if such acts do not impair the structural integrity or mechanical systems of the Buildings in which such Units are located or lessen the support of any portion of the Property. Removal of partitions or creation of apertures under this subparagraph is not an alteration of boundaries.

F. Maintenance Responsibilities. Notwithstanding the ownership of the various portions of the Common Elements and the Units by virtue of the foregoing boundary descriptions, the Units and the related Limited Common Elements shall be maintained and repaired by each Unit Owner and the Common Elements shall be maintained and repaired by the Association except that if damages are inflicted to any Common Elements, the Unit Owner responsible for the damage is liable for the prompt repair thereof, all in accordance with the provisions of Section 1603-107(a) of the Act, except as may be expressly set forth to the contrary in this Declaration. The Association shall have the easement right, but not the obligation, to maintain any landscaping and other areas within Unit boundaries not occupied by structures, and to charge the cost thereof to the Unit owner.

#### ARTICLE IV: COMMON ELEMENTS AND LIMITED COMMON ELEMENTS

A. Common Elements. The Common Elements are all parts of the Property other than the Units.

B. Allocation of Limited Common Elements. A description, including the location and dimensions of all Limited Common Elements other than portions of the Property described as Limited Common Elements pursuant to Section 1602-102(2) and (4) of the Act, and the identifications of the Unit or Units to which the Limited Common Elements are hereby allocated are set forth or shown on the Plat and/or described herein. The allocation of Limited Common Elements to the Units cannot be altered except with the written consent of the Owners and Mortgagees of record of the Units affected by the reallocation of Limited Common Elements, and in compliance with the provisions of Section 1602-108(b) of the Act. Limited Common Elements other than those described in Sections 1602-102(2) and (4) of the Act consist of the following: (a) parking areas and driveways (that are labeled on the Plat as Limited Common Elements appurtenant to a specific Unit); (b) portions of the Property shown on the Plat as Limited Common Elements; (c) storm water drainage facilities that benefit one or more, but fewer than all, of the Units; and (d) any shared driveways, utility lines and mechanical equipment, each assigned respectively to the Units

served thereby. Use of Limited Common Elements shall be subject to any restrictions, conditions or limitations that may be imposed by the Portland Planning Board.

C. Limited Common Elements to be Subsequently Allocated by Declarant. There is no real estate which may be subsequently allocated as Limited Common Elements, other than Limited Common Elements specified in Section 1602-102(2)-(4) of the Act or the Limited Common Elements already allocated. The Declarant may, without consent or action by the Unit Owners or any Mortgagee, allocate each such Assignable Limited Common Element as a Limited Common Element pursuant to the provisions of Section 1602-108 of the Act by causing appropriate amendments to this Declaration or to the Plat to be executed and recorded.

D. Association Rights to Reserve Common Elements. "Reserved Common Elements" are those parts of the Common Elements which the Executive Board may designate from time to time for use by less than all Unit Owners or by non-Unit Owners for specified periods of time. The Executive Board of the Association shall have the power in its discretion from time to time to grant revocable licenses in designated Reserved Common Elements and to establish a reasonable charge for the use and maintenance thereof. Such designation by the Board shall not be construed as a sale or disposition of the Common Elements.

E. Common Element Interest. The fraction of undivided interest in the Common Elements appurtenant to each Unit (the "Common Element Interest") is allocated to each Unit as set forth in Schedule C. The Common Element Interest appurtenant to each Unit is a fraction determined in the manner described in Schedule C.

F. Common Elements to Remain Undivided. The Common Element Interest of a Unit shall be inseparable from each Unit, and any conveyance, lease, devise or other disposition or mortgage or other encumbrance of any Unit shall extend to and include the Common Element Interest, whether or not expressly referred to in the instrument effecting such transfer. Except as otherwise provided by law or this Declaration, the Common Element Interests and the fee titles to the respective Units conveyed therewith shall not be separately conveyed, transferred, alienated or encumbered and each of said Common Element Interests shall be deemed to be conveyed, transferred, alienated or encumbered with its respective Unit notwithstanding that the description in the instrument of conveyance, transfer, alienation or encumbrance may refer only to the fee title to the Unit.

G. Partition or Division of Common Elements. The Common Elements shall remain undivided and no action for partition or division of any part thereof shall be permitted, unless otherwise provided by law and permitted by this Declaration.

H. Amendment of Interest in Common Elements. Except with respect to the subdivision or conversion of Units as provided in Article III(D), or as otherwise provided in the Act, the Common Element Interest appurtenant to each Unit shall have a permanent character, shall be inseparable from each Unit and shall not be altered or changed except by the recording of an amendment to this Declaration, duly executed by all of the Unit Owners and all of the holders of record of any first Mortgage liens upon the Units.

I. Use of Common Elements. Except as otherwise limited by this Declaration or the Bylaws or by the Executive Board pursuant to its powers, each Unit Owner, tenant and occupant of a Unit, and the guests, customers, clients, agents and employees of such Unit Owner, tenant and occupant, may use the Common Elements in common with all other Unit Owners and tenants or occupants of other Units, and their respective guests, customers, clients, agents and employees, in accordance with the purposes for which they are intended without hindering or encroaching upon the lawful rights of the other Unit Owners, upon the following terms:

(1) Parking shall not be permitted on the main road (Easement Area #1 as described in Schedule A hereto). Parking of permitted motor vehicles shall be only in any Limited Common Elements appurtenant to the Unit or other areas designated as spaces for parking. No unattended vehicles shall at any time be left in such a manner as to impede the passage of traffic or to impair access to parking areas. Parking areas and all Common Elements shall at all times be kept free of unreasonable accumulations of debris or rubbish of any kind and no junk or derelict vehicle or other vehicle on which current registration plates are not displayed shall be kept upon any of the Common Elements. Vehicle repairs other than ordinary light maintenance are not permitted on the Property.

(2) Except for such signs as may be posted by the Declarant for promotional or marketing purposes, no signs of any character shall be erected, posted or displayed upon, in, from or about any Unit or Common Element without the prior written approval of the Executive Board or a committee designated by the Executive Board except as otherwise provided in this subparagraph, the Bylaws or any rules promulgated in writing by the Association, which approval will not be unreasonably withheld, conditioned or delayed. The foregoing provisions of this subparagraph shall not apply to a Mortgagee in possession of a Unit as a result of foreclosure, judicial sale or a proceeding in lieu of foreclosure. Upon prior written notice, the Executive Board shall approve a publicly displayed, adequately-sized, directional and identifying sign(s) that complies with applicable City codes, declaring the name or names and location of the business of the occupant of a Unit.

(3) No Unit Owner shall obstruct any of the Common Elements nor shall any Unit Owner place or cause or permit anything to be placed on or in any of the Common Elements without the approval of the Board. Nothing shall be altered or constructed in or removed from the Common Elements except with the prior written consent of the Executive Board. The Common Elements and any part of a Unit not occupied by a Building shall be kept clean and free of debris.

(4) The Executive Board, the Association, any Unit Owner and the Declarant shall not be considered a bailee, however, of any personal property stored on the Common Elements (including vehicles parked on the Common Elements), whether or not exclusive possession of the particular area is given to a Unit Owner for parking purposes, and shall not be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

(5) Common Elements shall be maintained by the Association in accordance with the Forestry Management Plan approved by the Portland Planning Board or by the Planning Division Director.

(6) An 'umbrella' Traffic Demand Management plan for the Condominium and its Unit Owners shall be maintained by the Association, so long as the Planning Division Director requires the Association to maintain such an umbrella plan. To the extent there are costs related to changes to this 'umbrella' Traffic Demand Management plan incurred because of the development of a particular Unit, those costs shall be a Limited Common Expense allocated to that particular unit; otherwise, costs related to the 'umbrella' Traffic Demand Management plan shall be a Common Expense.

J. Alteration to Common Elements by Unit Owner. Subject to any necessary governmental land use or regulatory approvals, a Unit Owner may make improvements and alterations within the boundaries of its Unit. No Unit Owner shall impair any easement or hereditament therein without the unanimous consent of the Unit Owners affected thereby. No Unit Owner shall alter any of the Common Elements or paint or otherwise change the appearance of the Common Elements (including the Limited Common Elements) or paint or otherwise change the exterior appearance of his Unit or any other portion of the Condominium without the prior written approval of the Association acting by the Executive Board, which approval will not be unreasonably withheld.

K. Limited Common Elements and Expense. "Limited Common Expenses" mean: (a) the Common Expenses associated with the maintenance, repair or replacement of a Limited Common Element which shall be assessed against the Units to which that Limited Common Element is assigned, and (b) the Common Expenses for services benefiting fewer than all the Units, which are assessed exclusively against the Units benefited in accordance with the use of such services as permitted by Section 1603-115(c) of the Act. The owner of a Unit shall maintain, repair and replace all Limited Common Elements relating to that Unit except as may otherwise be provided in this Declaration and if the Unit Owner fails to commence to maintain, repair and replace any defect, which in the reasonable judgment of the Association is in need of repair, within 30 days after written notice from the Association of the defect, and to continue such maintain, repair or replacement with reasonable diligence to completion, the Association may (but shall have no obligation to) maintain, repair and replace such Limited Common Elements and shall assess, except as otherwise provided herein, as a Limited Common Expense, the Common Expenses associated with the maintenance, repair or replacement of such Limited Common Elements. The Association shall also have the right to assess an individual Unit for Common Expenses if the Common Expenses shall be incurred due to the negligence, neglect or misconduct of the Owner of such Unit. Maintenance and repair of any shared utility lines and facilities, shared driveways and any shared mechanical equipment will be assessed as a Limited Common Expense against the Unit or Units benefited. Notwithstanding anything to the contrary contained herein, for purposes solely for parking areas, landscaping, sidewalks and the like that may be located within the boundary lines of a Unit, such area shall be maintained by the Unit owner, and if the Unit owner fails to do so, may be maintained by the Association (but the Association shall have no obligation to do so), and the cost thereof shall be assessed as a Limited Common Expense against such Unit.

L. Maintenance of Common Elements. The Association shall be responsible for the maintenance, repair and replacement (unless, in the opinion of the Executive Board such expense was necessitated by the negligence, misuse or neglect of a Unit Owner) of all of the Common Elements (except as otherwise provided in Article IV(K) hereof with respect to the Limited Common Elements) whether located inside or outside of the Units, the cost of which shall be charged to the Unit Owners as a Common Expense except as otherwise provided in Article IV(K). Except as otherwise provided in this paragraph or in Article IV(K), the Association shall be responsible for the maintenance (including but not limited to (i) minimum annual and as needed inspection and maintenance of all drainage facilities; (ii) snow and ice removal from the main road; (iii) repair and replacement (unless, such expense was necessitated by the negligence, misuse or neglect of a Unit Owner)) of all of the Common Elements whether located inside or outside of the Units, the cost of which shall be charged to the Unit Owners as a Common Expense. The maintenance, repair and replacement of Common Elements located within a Unit, or for which the Unit Owner is otherwise responsible, to the extent required for the functioning of or for connecting utilities to the Property and Units shall be furnished by the Association as part of the Common Expenses except as provided in Article IV(K), Article IV(J) and/or in Article VI(B). The maintenance, repair and replacement of Common Elements located within a Unit, or for which the Unit Owner is otherwise responsible, to the extent required for the functioning of or for connecting utilities to the Property and Units shall be furnished by the Association as part of the Common Expenses except as provided in Article IV(K).

The Association, as part of its obligations under this paragraph, shall be obligated to maintain, repair and replace the main road (and the adjoining sidewalk and drainage facilities that adjoin the main road) that leads from Rand Road to the Units, the location of such road, sidewalks and drainage facilities being described as Easement Area #1 in Schedule A hereto. Such obligations shall include all costs and expenses, including all ordinary and extraordinary expenses, and all major and capital repairs and replacements as well as all ordinary repairs and maintenance, including snow and ice removal, sanding, salting and other treatment, repaving, striping, resurfacing, grading, rebuilding and reconstruction as needed in order to provide high quality, safe and orderly access to the Units. Declarant will continue to own the fee of such road but has provided easements to the Association and Unit owners over such road as set forth in

Schedule A hereto (Easement Area #1). Accordingly, the Association agrees to be responsible for all costs and expenses of every kind and nature whatsoever relating to such road, and the Association agrees to indemnify, defend and hold Declarant harmless from any liability or injury, loss, accident or damage to any person or property, and from any claims, actions, proceedings and expenses and costs in connection with the road or relating in any way thereto or any injury or liability occurring thereon or relating thereto (including without limitation attorney's fees and expenses) arising in whole or in part from (i) the omission, fault, willful act, negligence or other misconduct of the Association, the unit owners, any licensees, guests, visitors or invitees or from any use made or thing done and occurring on said road; or (ii) the failure of Association to perform and discharge its covenants and obligations under this Declaration. The Association shall maintain liability insurance, naming Declarant as an additional insured, with respect to the road and adjoining drainage facilities (including gravel wetlands 1, 3 and 8) and sidewalk and shall provide certificates of such insurance to Declarant in accordance with Article XI hereof.

The Association is also obligated to comply with (a) the post-construction storm water management plan that applies to common element and limited common element storm water facilities, in accordance with Section 32-38 of the City of Portland, Storm Water Ordinance, as amended from time to time, and in accordance with the provisions set forth in Schedule D hereto, as amended from time to time with the approval of the Portland Planning Board, including the filing of annual reports; and (b) the post development inspection, maintenance and reporting requirements set forth as standard conditions of approval for the Maine Department of Environmental Protection Site Location of Development Permit for the property. The Association may assess, as a limited common expense to the Unit(s) benefited, a reasonable portion of the costs relating to the portion of the storm water management plan and such DEP post development inspection, maintenance and reporting requirements that relates to limited common element drainage facilities; all other expenses of the post-construction storm water management plan shall be assessed as common expenses.

If the Association fails to perform its obligations described in this paragraph, the Declarant shall have the right, but not the obligation, to perform such obligations and to maintain and repair the road, sidewalk and drainage facilities and the Association agrees to reimburse Declarant, on demand, for such costs thereof.

M. Maintenance of Unit. Each Unit Owner shall keep and maintain his Unit and its equipment, appliances, landscaping and appurtenances in good order, condition and repair and in clean and sanitary condition, whether such maintenance and repair shall be structural or nonstructural, ordinary or extraordinary, and shall do all redecorating, painting and varnishing which may at any time be necessary to maintain the good appearance and condition of his Unit. No Unit Owner shall sweep or throw, or permit to be swept or thrown, from his Unit any dirt, debris or other substance, except as permitted by applicable law and applicable land use permits. In addition, each Unit Owner shall be responsible for all damage to any other Units or to the Common Elements resulting from his failure or negligence to make any of the repairs required by this Article. Each Unit Owner shall perform his responsibility in such manner as shall not unreasonably disturb or interfere with the other Unit Owners. Each Unit Owner shall promptly report to the Executive Board or the managing agent any defect or need for repairs for which the Association is responsible.

N. Liability of Owner. Each Unit Owner shall be liable, and the Association shall have a lien against his Unit for the expense of maintenance, repair or replacement of any damage to the Common Elements or to another Unit caused by such Unit Owner's act, neglect or carelessness or by that of any Unit Owner's guests, agents or tenants. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy, or abandonment of any Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation against such Unit Owner.

O. Maintenance, Owner Self-Help. If the Association fails to comply with its obligation to maintain, replace or repair any part of the Condominium as specified in this Declaration, within a reasonable time after the owner of a Unit requests that such required maintenance, replacement or repair be performed by the Association, then such Unit owner shall have the right to perform the required maintenance, replacement or repair, provided that no work done by a Unit Owner shall impair or jeopardize the structural integrity of the Building or any part of the Condominium. Any Unit Owner may at any time commission an engineer's report regarding the necessity or advisability of such maintenance, replacement or repair, and may present that report to the Association. If the Unit Owner has performed such maintenance, replacement or repair pursuant to this paragraph, the Unit Owner may seek reimbursement from the Association as a Common Expense for any portion of any expense so incurred by the Unit Owner, the cost of which would not have been allocated to such Unit Owner. If, after a reasonable time, a Unit Owner is not satisfied with or disagrees with the Association's response, such Unit Owner may submit the dispute, including, without limitation, any request for reimbursement of expenses, if applicable, to arbitration in accordance with the terms of this Article VII(B). The expenses of such arbitration shall be a Common Expense. If the arbitrator finds in favor of the Unit Owner that commissioned the engineering report, the expense of such report shall be a Common Expense. Otherwise, such expense shall be borne by said Unit Owner.

#### ARTICLE V: SPECIAL DECLARANT RIGHTS

A. Development Rights. Declarant shall have and hereby reserves the Development Rights: (a) to create Common Elements and/or Limited Common Elements (including parking spaces and drives as shown on any amendment prepared by Declaration to the Plat, as the same may be modified from time to time with the approval of the Portland Planning Board, and shared utility lines and facilities and shared drives) in connection with the Units, Common Elements and Limited Common Elements for Units 1 through 7, any such new Common Elements or new Limited Common Elements (including additional parking areas, driveways and any shared mechanical equipment and rooms) to be substantially as shown on an amended Plat approved by the City of Portland Planning Board; (b) to combine Units 6 and 7 into one Unit and to incorporate the area between said Units shown on the Plat as subject to the Development Rights into said combined Unit; and (c) to change the size, arrangement and location of Units and Limited Common Elements (prior to conveyance of the Unit to a Unit owner), subject to approval by the Portland Planning Board, all to the fullest extent permitted by law and subject to limitations provided in this Article V(A) and without the vote or consent of the Executive Board, any Unit Owner or any Mortgagee.

Declarant reserves the Development Rights set forth in this Article V(A) until the thirtieth (30th) anniversary date of the recording of this Declaration.

B. Condominium Association and Executive Board Access. Declarant reserves in favor of itself, the Association and its Executive Board, officers, agents and employees, any managing agent and every other person authorized by the Executive Board the irrevocable right and easement to have access to each Unit as provided in Section 1603-107(a) of the Act as may be necessary for the inspection, maintenance, repair or replacement of any of the Common Elements and Limited Common Elements therein or accessible therefrom or the making of any addition or improvements thereto; or to make repairs to any Unit, the Common Elements or the Limited Common Elements if such repairs are reasonably necessary for the public safety or to prevent damage to any other Unit or Units, the Common Elements or the Limited Common Elements; or to abate any violation of law, orders, rules or regulations of the Association or of any governmental authorities having jurisdiction thereof. In case of an emergency, such right of entry shall be immediate whether or not the Unit Owner is present at the time. The Association and its Executive Board shall have the right to grant to third parties permits, licenses and easements over and through the Common Elements for utilities and other purposes reasonably necessary or useful for the proper maintenance and

operation of the Condominium. The Association shall also have the right and easement to install, maintain and replace from time to time an entrance sign for the Portland Technology Park on the Limited Common Element area allocated to Unit #1 in a location adjacent to the Park road.

C. Declarant's Easement for Marketing. Declarant reserves the right with respect to its marketing of Units to use the Common Elements for the ingress and egress of itself, its officers, employees, agents, contractors and subcontractors and for prospective purchasers of Units. The Declarant also reserves the right to use any Units owned or leased by the Declarant as models, management offices, sales offices for this and other projects or customer service offices. The Declarant reserves the right to relocate the same from time to time within the Property; upon relocation, the furnishings thereof may be removed. The Declarant further reserves the right to maintain on the Property such advertising signs and lighting as may comply with applicable governmental regulations, which may be placed in any location on the Property and may be relocated or removed, all at the sole discretion of the Declarant. Further, the Declarant shall have the right to erect temporary offices on the Common Elements for models, sales, management, customer service and similar purposes. This easement shall continue until the Declarant has conveyed all Units to Purchasers.

D. Declarant's Easements for Construction. Declarant reserves the easement, right and privilege without let or hindrance with respect to the creation of the Units, Common Elements, Limited Common Elements, the Development Rights specified in Paragraph A hereinabove and other improvements of the Condominium, to go upon any and all of the Property except for Units and the related Limited Common Elements conveyed to Purchaser for purposes of construction, reconstruction, maintenance, repair, renovation, replacement, improvement or correction of the Units and Common Elements and for completion of the improvements indicated on the Plat. Furthermore, the Declarant reserves an easement in the Units and Common Elements pursuant to Section 1602-116 of the Act for the purpose of discharging Declarant's obligations and exercising the Special Declarant rights reserved pursuant to this Declaration. These easements shall continue until all Units in the Condominium are conveyed by Declarant.

E. Declarant's Right to Connect With Utilities and Drainage. Declarant further reserves an easement to connect with and make use of utility lines, wires, pipes and conduits and drainage lines and facilities located on the Property for construction purposes on the Property, provided that Declarant shall be responsible for the cost of service so used, and to use the Common Elements for ingress and egress and construction activities and for the storage of construction materials and equipment used in the completion of the Units and Common Elements. This easement shall continue until the Declarant has conveyed all Units.

F. Declarant's Right to Grant Easements. Declarant shall have the right, until the Declarant has conveyed all Units to Purchasers, to grant and reserve easements and rights of way through, under, over and across the Property for construction purposes, and for the installation, maintenance and inspection of the liens and appurtenances for public or private water, sewer, drainage, gas, electricity, telephone and other utilities. The Units and Common Elements shall be, and are hereby, made subject to easements in favor of the Declarant, appropriate utility and service companies and governmental agencies or authorities for such utility and service lines and equipment as may be necessary or desirable to serve any portion of the Property. The easements created in this Paragraph shall include, without limitation, rights of Declarant, or the providing utility or service company, or governmental agency or authority to install, lay, maintain, repair, relocate and replace gas lines, pipes and conduits, water mains and pipes, sewer and drain lines, elevators, telephone wires and equipment, air conditioning, heating systems, ventilation systems, electric wires, conduits and equipment and ducts and vents over, under, through, along and on the Units and Common Elements. Notwithstanding the foregoing, Declarant shall not grant any such easements that adversely affect any buildings constructed by any Unit Owner.

G. Alteration of Common Elements by Declarant. Declarant reserves the right (but shall have no

obligation) to modify, alter, remove or improve defective, obsolete or nonfunctional portions of the Common Elements, including without limitation any equipment, fixtures and appurtenances when in the Declarant's judgment it is necessary or desirable to do so, until all Units have been conveyed to Purchasers.

H. Transfer of Special Declarant Rights; Termination and Surrender. Declarant reserves the right to transfer from time to time to any one or more transferees any or all reserved Special Declarant Rights in accordance with Section 1603-104 of the Act. Notwithstanding any other provisions in this Declaration, this Article may not be amended without the prior written consent of the Declarant. Notwithstanding the foregoing, Declarant may surrender or terminate any rights reserved under this Article at any time by recording an instrument so providing in the Cumberland County Registry of Deeds.

The Development Rights and Special Declarant Rights set forth in this Article V shall terminate 30 years after the date of this Declaration or at any earlier date as expressly set forth above.

#### ARTICLE VI: ASSESSMENTS FOR COMMON EXPENSES

A. Common Expense Liability. Except as provided in Article IV(K), Article IV(L), and Article VI(B), the Common Expense Liability (which is the allocation to each Unit or Unit Owner of the respective liability of each Unit Owner for Common Expenses) allocated to each Unit is a fraction of the Common Expenses assessed against all of the Units that is equal to the Common Element Interest appurtenant to the respective Unit as set forth in Schedule C.

B. Allocation of Assessments of Common Expenses. The total amount of Common Expenses shall be assessed against the Units in the following proportions: (1) the Common Expenses that are not Limited Common Expenses shall be assessed against all of the Units in proportion to the relative Common Expense Liabilities of all the Units; (2) the Limited Common Expenses shall be assessed solely against each Unit benefited except as otherwise provided in this Declaration; except as provided in Article IV(K) and Article IV(L), if a Limited Common Expense benefits more than a single Unit, that Limited Common Expense shall be assessed solely against each Unit benefited equally against the Units to which Limited Common Elements are assigned or appurtenant; (3) assessments to pay a judgment against the Association shall be made as a Limited Common Expense against the Units included in the Condominium at the time such judgment was entered; and (4) any utilities which are separately metered shall be supplied by the public utility company serving the area directly to each Unit through a separate meter and each Unit Owner shall be required to pay the bills for utilities consumed or used in his Unit, and any utilities which are not separately metered shall be paid by the Association and charged to the Unit owners as a Common Expense.

The Declarant shall not be liable for any assessments for any Units until after the later to occur of the first conveyance of a Unit to a third person other than an affiliate of the Declarant or the first Common Expense assessment by the Association. Assessments for Common Expenses shall commence on the first day of the first month following the date of the first conveyance of a Unit to a person other than the Declarant.

C. Payment Obligations. Each Unit Owner shall pay to the Association or its authorized representative on the first day of each month, or on such other date that the Association may determine in writing, one-twelfth of the Common Expenses, including Limited Common Expenses, assessed on an annual basis against his Unit in the proportions required in Paragraph B of this Article in accordance with the Bylaws and subject to Section 1603-103(c) of the Act. If for any reason the Association shall revise the annual budget of the Association in accordance with the Bylaws and subject to Section 1603-103(c) of the Act whereby the Common Expenses or any component thereof may be increased, thence commencing on the first day of the first month subsequent to the adoption of such revised budget each Unit Owner shall pay to the Association or its authorized representative one-twelfth of any such revised annual Common

Expenses including Limited Common Expenses assessed against his Unit in the proportions required in Paragraph B of this Article.

D. Interest; Acceleration. In the event of a default by any Unit Owner in paying any sum assessed against his Unit which continues for a period in excess of thirty (30) days, interest at a rate of interest to be established annually by the Executive Board which shall not exceed the lower of the maximum interest rate allowed by law which may be charged by the Association at such time or eighteen percent per annum shall be imposed on the principal amount unpaid from the date when due until paid. If the Executive Board shall fail to set such rate, it shall be deemed to have been set at the rate of Eighteen Percent (18%) per annum. The Association shall have the right to establish and impose charges for late payment of assessments. In any case where an assessment against a Unit Owner is payable in installments, upon a default by such Unit Owner in the timely payment of any two consecutive installments, the maturity of the remaining total of the unpaid installments of such assessments may be accelerated at the option of the Executive Board, and the entire balance of the annual assessment may be declared due and payable in full by the service of notice to such effect upon the defaulting Unit Owner by the Executive Board or its representatives.

E. Lien for Assessments. The total annual assessment levied against each Unit for Common Expenses including Limited Common Expenses, revised Common Expenses including Limited Common Expenses, or any special assessment, and any other sums duly levied against the Unit pursuant to this Declaration, the Bylaws, or the Act and all interest thereon and charges for late payment thereof and legal fees and other costs of collection thereof shall constitute the personal liability of the Owner of the Unit so assessed and also shall, until fully paid, constitute a lien against the Unit in favor of the Association from the date upon which such assessment, special assessment or other sum such as interest becomes due as provided in Section 1603-116 of the Act. Such lien shall, with respect to annual assessments, be effective on the first day of each fiscal year of the Association as to the full amount of the annual assessment, and, as to special assessments and other sums duly levied, on the first day of the next month which begins more than ten (10) days after delivery to the Unit Owner of notice of such special assessment or levy. Such lien is prior to all other liens and encumbrances on a Unit except (a) liens and encumbrances recorded before the recordation of this Declaration, (b) a first Mortgage recorded before or after the date on which the assessment sought to be enforced becomes delinquent, and (c) liens for real estate taxes and other governmental assessments or charges against the Units; provided, however, that such lien is not subject to the provisions of 14 M.R.S.A. §4561 and 18-A M.R.S.A. §2-201, et seq., as they or their equivalents may be amended or modified from time to time.

F. Enforcement. The lien for assessments described in Paragraph E of this Article may be enforced and foreclosed by the Association in like manner as a mortgage on real estate as provided in Section 1603-116(a) of the Act or by any other means presently or hereafter provided by law or in equity. A suit to recover a money judgment for unpaid assessments, interests, penalties, and costs of collection may be maintained against the Unit Owner personally without foreclosing or waiving the lien securing such assessments and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment. During the pendency of any such suit, the Unit Owner shall be required to pay a reasonable rental of the Unit for any period prior to the sale pursuant to any judgment or order of any Court having jurisdiction over such sale.

G. Exemption from Expenses by Waiver of Use of Common Elements or Unit Elements. No Unit Owner may exempt himself from Common Expense Liability with respect to the payment of assessments for Common Expenses by waiver of the enjoyment of the right to use any of the Common Elements or by abandonment of his Unit or otherwise. The obligation to pay assessments for Common Expenses is absolute and unconditional and shall not be subject to set-offs or counterclaims.

H. Reduction of Expenses. All receipts from payments, fees or charges for the use, rental,

operation, or allocation as a Reserved Common Element, of any and all Common Elements shall be applied first to reduce the Common Expense relating to the use of that Common Element giving rise to such Common Expense and any excess thereof shall be applied to Common Expenses generally.

I. Surplus Funds. If at the end of any fiscal year any amounts accumulated from assessments for Common Expenses and income from the operation of the Common Elements to which such Common Expenses pertain shall exceed the amount required or actual Common Expenses and provision for Common Expenses and any payment of reserves for future Common Expenses, such excess shall be applied to the reserve fund unless credited by the Association to each Unit Owner in proportion to their respective Common Expense Liabilities to reduce until exhausted the next monthly installments due from Unit Owners. Similarly, any surplus funds of the Association not so applied to the reserve fund and remaining after payment of or provision for Limited Common Expenses after application to Common Expenses as provided in Paragraph H of this Article, shall be credited to the Owners of the Units giving rise to such Limited Common Expenses in the proportions provided in Paragraphs B and H of this Article to reduce until exhausted the next monthly installments of assessments for such respective Expenses due from such Unit Owners. Surplus funds shall not otherwise be paid or credited to Unit Owners.

J. Service Charges. The Association shall have the express power to separately charge a Unit and the owner thereof for services rendered to that Unit. Such charges shall be a lien on the Unit with the same status as a lien for common expense assessment under this Declaration and Bylaws, which lien for service charges may be foreclosed in like manner as a mortgage on real estate. The recordation of this Declaration constitutes record notice of the lien. Service charges shall include without limitation: (1) if a Unit Owner, his agents or tenants request the Association to perform repair and maintenance work on his Unit or damages the Common Elements or fails to perform maintenance and repair work required, the expense thereof as determined by the Executive Board or its designee may be assessed as a Service Charge; (2) fees, if any, which may be established by the Executive Board for use and maintenance of water, sewer, heat and/or other utility services; and (3) insurance premiums on permanent improvements to Units installed by Unit Owners and insured by the request of the Unit Owner with the Association's hazard insurance carrier.

K. Liability. In a voluntary conveyance, the purchaser of a Unit shall be jointly and severally liable with the Seller for all unpaid common charges, assessments, service charges, interest and costs of collection up to the time of the grant or conveyance, although the Purchaser shall not be prevented from exercising any right to recover from the Seller the amounts paid for those assessments and common charges. A purchaser or prospective purchaser under a purchase and sale contract for a Unit may obtain, upon request and the payment of such fee as may be established from time to time by the Executive Board, a statement from the Association setting forth the amount of unpaid common charges, assessments and service charges, interest and costs of collection against the Unit as of the date of grant or conveyance and such other items required by the Act. The purchaser shall not be liable for, and the Unit conveyed shall not be subject to a lien for any unpaid amounts due from the Seller before the statement date in excess of the amount set forth in the statement except interest and costs of collection accrued thereafter.

## ARTICLE VII: UNIT OWNERS ASSOCIATION

A. Owners Association and Bylaws. Each Unit Owner shall be a member of the Association, a non-profit corporation organized under the laws of the State of Maine known as Portland Technology Park Condominium Association. Membership shall be appurtenant to the Units, and the transfer of title to a Unit shall automatically transfer the membership appurtenant to that Unit to the transferee or transferees. A mortgage, however, shall not transfer membership until foreclosure or sale in lieu of foreclosure. The Bylaws of the Association, which govern the operation and management of the Association, are attached hereto as Schedule E. The Association shall have all the powers granted pursuant to Section 1603-102 of the Act including the power to assign its right to future income.

B. Executive Board Powers, Declarant Control Period. Except as otherwise provided in Section 1603-103(b) of the Act, the Executive Board may act on behalf of the Association, shall have all of the powers necessary for the administration of the affairs of the Association and may do all such acts and things as are not by the Act or this Declaration or the Bylaws required to be exercised and done by the Association. The affairs of the Association shall be governed by an Executive Board composed of no less than three (3) and no more than seven (7) natural persons. Prior to the Transition Election provided for by below, the Executive Board shall be composed of three (3) natural persons appointed by the Declarant. The Declarant shall have the right during the Declarant Control Period to appoint, remove and replace from time to time any and all members of the Executive Board and officers of the Association, without the necessity of obtaining resignations. The appointees of the Declarant need not be Unit Owners. After the Transition Election, at least a majority of the members of the Executive Board shall be Unit Owners or spouses of Unit Owners, or in the case of a Unit Owner which is a corporation, partnership, limited liability company, trust or estate, a designated agent thereof. Each Unit Owner shall have the right to appoint or elect one member of the Executive Board. The transition from Declarant-appointed members of the Executive Board to Unit Owners other than the Declarant shall occur as follows:

(i) No later than the earlier of (a) sixty (60) days after the conveyance of seventy-five percent (75%) of the Units to Purchasers or (b) seven (7) years following conveyance of the first Unit to a Purchaser, or at such earlier date as the Declarant in its sole discretion shall specify, the Transition Meeting of the Association and Transition Election shall be held at which all of the members of the Executive Board and the officers of the Association shall all resign, and the Unit Owners, including the Declarant if the Declarant owns one or more Units, shall thereupon elect successor members of the Executive Board to act in the place and stead of those resigning.

(ii) The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the Declarant Control Period, but in that event it may require, for the duration of the Declarant Control Period, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before such actions can become effective. In determining whether the Declarant Control Period has terminated, the percentage of the Units conveyed is presumed to be that percentage which would have been conveyed if all the Units were included in the Condominium that the Declarant has created or reserved in this Declaration the Development Rights to create.

C. Disputes. The Association and any aggrieved Unit Owner shall have an appropriate right of action, together with any and all appropriate remedies under the Act, in law or equity, against any of the Unit owners or the Association for failure to comply with any provision of this Declaration or with any decision of the Association made pursuant thereto. The Executive Board shall have the authority to seek a declaratory judgment or other appropriate judicial relief in order to assist it in carrying out its responsibilities under this Article, except as hereinafter provided. Notwithstanding the rights of action described in the preceding two sentences, any dispute resulting in a deadlock among the Executive Board members or described in Article III or Article IV hereof shall be submitted to arbitration in accordance with the procedures set forth herein. In such cases, all of the members of the Executive Board shall, within thirty days after such deadlock occurs, attempt to agree upon a single arbitrator to settle the dispute. If the members are unable to agree on a single arbitrator within such thirty-day period, then the dispute shall be settled by a single arbitrator in accordance with the rules of the American Arbitration Association. The expenses of such arbitration shall be a Common Expense. All Unit Owners and the Association shall be bound by the arbitration decision, including, without limitation, any determination regarding the entitlement of a Unit owner to reimbursement of expenses incurred pursuant to Article IV(O). No other right of action shall arise with respect to a dispute arising out of an Executive Board deadlock or a dispute over maintenance, replacement or repair of all or any part of the Common Elements.

## ARTICLE VIII: LIMITATION OF LIABILITY

A. Limited Liability of the Executive Board. No member of the Executive Board or officer of the Association, except to the extent of his or her willful misconduct or gross negligence: (1) shall be liable for the failure of any service to be obtained by the Executive Board and paid for by the Association, or for injury or damage to persons or property caused by the elements or by another Unit Owner or person on the Property, or resulting from electricity, gas, water, rain, dust or sand which may leak or flow from the outside or from any part of the Buildings, or from any of its pipes, drains, conduits, or equipment, or from any other place; (2) shall be liable to the Unit Owners as result of the performance of the Executive Board members' duties for any mistake of judgment, negligence or otherwise; (3) shall have any personal liability in contract to a Unit Owner or any other person or entity under any agreement, check, contract, deed, lease, mortgage, instrument or transaction entered into by them on behalf of the Executive Board or the Association in the performance of the Executive Board members' duties; (4) shall be liable to a Unit Owner, or such Unit Owner's tenants, employees, agents, customers or guests, for loss or damage caused by theft of or damage to personal property left by guests in a Unit, or in or on the Common Elements or Limited Common Elements; (5) shall have any personal liability in tort to a Unit Owner or any other person or entity, direct or imputed, by virtue of acts performed by or for them; or (6) shall have any personal liability arising out of the use, misuse or condition of the Buildings, or which might in any other way be assessed against or imputed to the Executive Board members as a result of or by virtue of the performance of their duties. Notwithstanding the foregoing, any liability of the City of Portland or any representative thereof shall be limited as set forth in the Maine Tort Claims Act.

B. Indemnification. Each member of the Executive Board, in his capacity as an Executive Board member, officer or both, shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon him in connection with any proceeding in which he may become involved by reason of his being or having been a member and/or officer of the Executive Board, or any settlement of any such proceeding, whether or not he is an Executive Board member, officer or both at the time such expenses are incurred, except in such cases wherein such Executive Board member and/or officer is adjudged guilty of willful misconduct or gross negligence in the performance of his duties; provided that, in the event of a settlement, this indemnification shall apply only if and when the Executive Board (with the affected member abstaining if he is then an Executive Board member) approves such settlement and reimbursement as being in the best interests of the Association; and provided further that, indemnification hereunder with respect to any criminal action or proceeding is permitted only if such Executive Board member and/or officer had no reasonable cause to believe his conduct was unlawful. The indemnification by the Unit Owners set forth in this Paragraph shall be paid by the Association on behalf of the Unit Owners and shall constitute a Common Expense and shall be assessed and collectible as such. Such right of indemnification shall not be deemed exclusive of any other rights to which such Executive Board member and/or officer may be entitled as a matter of law or agreement or by vote of the Unit Owners or otherwise.

C. Defense of Claims. Complaints brought against the Association, the Executive Board or the officers, employees or agents thereof in their respective capacities as such, or the Condominium as a whole, shall be directed to the Executive Board of the Association, which shall promptly give written notice thereof to the Unit Owners and the Eligible Mortgage Holders and the Mortgagees of Units identified to the Association, and such complaints shall be defended by the Association. The Unit Owners shall have no right to participate in such defense other than through the Association.

## ARTICLE IX: EMINENT DOMAIN

A. Entire Unit. If any Unit and/or its Limited Common Elements shall be taken or condemned by

any authority having the power of eminent domain, or if part of a Unit and/or its Limited Common Elements is taken or condemned by any authority having the power of eminent domain leaving the Unit Owner with a remnant which may not practically or lawfully be used for any purpose permitted by this Declaration, the award for such taking or condemnation shall be paid to the Unit Owner as compensation for his Unit, its Limited Common Elements and its Allocated Interest in the Common Elements, whether or not any Common Elements are taken or condemned. Upon such taking or condemnation, unless the decree provides otherwise, that Unit's entire Allocated Interests shall be automatically reallocated to the remaining Units in proportion to the respective Allocated Interests of those Units prior to the taking or condemnation, and the Association shall promptly prepare, execute and record as a Common Expense an amendment to this declaration reflecting such reallocation. Any remnant of a Unit remaining after part of a Unit is taken or condemned under this Article IX(A) shall thereafter be a Common Element.

B. Part of Unit. Except as otherwise provided in Paragraph A, if part of a Unit and/or its Limited Common Elements is taken or condemned by any authority having the power of eminent domain, any award therefor shall be paid to the Owner of such Unit as compensation for the reduction in value of the Unit and/or the related Limited Common Elements and its Allocated Interest in the Common Elements, whether or not any Common Elements are taken or condemned. After such part of a Unit and/or its Limited Common Elements is taken or condemned that Unit's Allocated Interests shall be reduced in proportion to the reduction in relative value of the Unit as determined by the Executive Board, except that the votes in the Association and Common Expense Liability of a Unit shall not be changed by any partial taking.

C. Common Elements. If part of the Common Elements shall be taken or condemned by any authority having the power of eminent domain, the Association shall notify the Owners and the Eligible Mortgage Holders of the Units affected and shall represent the Unit Owners in any condemnation proceedings or in negotiations, settlements and agreements with the condemning authority, and the portion of the award attributable to the Common Elements taken shall be paid to the Association for the use and benefit of the Unit Owners and their Mortgagees as their interests may appear. Each Unit Owner appoints the Association as attorney-in-fact for the purposes described in this paragraph. Subject to the provisions of Article IX(D), the Association shall divide any portion of remaining Common Elements among the Unit Owners and their Mortgagees, in proportion to their respective interests in the Common Elements prior to such taking or condemnation, but the portion of the award attributable to the acquisition of any Limited Common Element shall be equally divided among the Owners of the Units to which such Limited Common Element was allocated at the time of such taking or condemnation. The Association shall promptly prepare, execute and record as a Common Expense an amendment to this Declaration reflecting such reallocation.

D. Decree, Prior Liens. The court decree shall be recorded. Notwithstanding anything to the contrary in this Article, lien holders on any Unit, Common Element or Limited Common Element, shall have a lien on any such awards in order of priority of their respective liens.

#### ARTICLE X: REPAIR AND RECONSTRUCTION AFTER FIRE OR OTHER CASUALTY

The Association is not responsible for the costs of restoring or repairing any damage to Units or the Limited Common Elements. Subject to any necessary governmental land use or regulatory approvals, each Owner shall repair or replace his Unit and the related Limited Common Elements and the improvements and personal property located therein at the Unit Owner's expense. Any portion of the Common Elements (other than the Limited Common Elements) damaged or destroyed shall be repaired or replaced promptly by the Association unless: (i) the Condominium is terminated; (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance; or (iii) One Hundred percent (100%) in interest of the Unit Owners vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds or not covered by any deductible shall be a common expense, *provided however* that notwithstanding any other

provision of the Declaration, each Owner of a Unit shall be responsible for the payment of the costs of repair or replacement to his or her Unit and the related Limited Common Elements. Each Unit Owner shall promptly report to the Board of Directors or the managing agent any defect or need for repairs for which the Association is responsible.

#### ARTICLE XI: INSURANCE

A. General. No later than the date of the first conveyance of a Unit to a person other than the Declarant, the Association, shall obtain and maintain as a Common Expense, the policies of insurance described below to the extent such policies shall be reasonably available. If such insurance is not maintained, then the Association shall give written notice thereof to the Unit Owners and the Eligible Mortgage Holders. To the extent that such insurance subsequently becomes unavailable, the Association shall obtain as a substitution the most comparable insurance available. The Board of Directors is hereby irrevocably appointed as attorney-in-fact for each Unit Owner and for each Mortgagee and Eligible Mortgage Holder and for each owner of any other interest in the Property, for purchasing and maintaining the insurance, for the collection and disposition of any insurance, including distribution pursuant to Section 1603-113(c) of the Condominium Act, for the negotiation of losses and execution of releases of liability, and for the execution of all documents, and performance of all other acts necessary to accomplish these purposes.

B. Property and Casualty Insurance for Common Elements. The Association shall obtain and maintain in effect an "all-risk" fire and casualty insurance policy covering the Common Elements (other than the Limited Common Elements) with extended coverage, vandalism, malicious mischief, windstorm, debris removal, cost of demolition and water damage endorsements, issued by an insurance company authorized to do business in the State of Maine, insuring the Common Elements (other than the Limited Common Elements), and any supplies and common personal property belonging to the Association, excluding the Units, any Unit improvements, Limited Common Elements, the land, foundations, excavations, and other similar items customarily excluded from property insurance policies, improvements installed by Unit Owners and excluding furniture, furnishings, inventory, equipment and other personal property supplied or installed by Unit Owners. The policy shall cover the interests of and name as insureds the Association, the Board of Directors, and all Unit Owners and their Mortgagees as their insurable interests may appear.

The Association's blanket or master insurance policy shall be in an amount equal to one hundred percent (100%) of the then current fair market value of such insured Common Elements (exclusive of the land, excavations, foundations and other similar items customarily excluded from such coverage), without deduction for depreciation. Such insurance policy may, at the option of the Board of Directors, contain such deductible as the Board of Directors shall reasonably deem appropriate. Unless otherwise established by the Board of Directors from time to time, a Unit Owner shall pay the expense of repair of damage to the Common Elements caused by the fault or negligence of the Unit Owner or his guests and invitees in the amount of any deductible or other amounts not covered by the insurance. The Association shall not be responsible for the costs of repair of damage to the Units or the Limited Common Elements.

Such casualty insurance policy shall also include the following provisions:

(i) The following endorsements or their equivalent: (a) "no control," meaning that coverage shall not be prejudiced by any act or neglect of any occupant or Unit Owner or their agents, when such act or neglect is not within the control of the insured, or the Unit Owners collectively, nor by any failure of the insured, or the Unit Owners collectively, to comply with any warranty or condition with regard to any portion of the Condominium over which the insured, or the Unit Owners collectively, have no control; (b) "Construction Code Endorsement" or "increased cost of construction," (c) "agreed amount" or elimination

of co-insurance clause; and (d) "inflation guard," when it can be obtained.

(ii) That any "no other insurance" clause shall expressly exclude individual Unit Owners' policies from its operation, so that the physical damage policy purchased by the Board of Directors shall be deemed primary coverage and any individual Unit Owners' policies shall be deemed excess coverage, and in no event shall the insurance coverage obtained and maintained by the Board of Directors hereunder provide for or be brought into contribution with insurance purchased by individual Unit Owners or their Mortgagees;

(iii) The recognition of any Insurance Trust Agreement whereby the Board of Directors may designate in writing an Insurance Trustee to hold any insurance proceeds in trust for disbursement, as provided in Section C below; and

(iv) A standard "mortgagee clause" which shall: (a) provide that any reference to a mortgagee in such policy shall mean and include all holders of mortgages of any Unit, in their respective order and preference, whether or not named therein; (b) provide that such insurance as to the interest of any mortgagee shall not be invalidated by any act or neglect of the Association or owners or any persons under any of them; and (c) waive any provision invalidating such mortgagee clauses by reason of the failure of any mortgagee to notify the insurer of any hazardous use or vacancy, and requirement that the mortgagee pay any premium thereon, and any contribution clause.

C. Casualty Losses, Adjustment and Payment; Insurance Trustee. Any loss covered by the insurance policy described in Section B above shall be adjusted with the Association acting through its Board of Directors, but the insurance proceeds shall be payable to the Insurance Trustee designated for that purpose, if any, as provided in the Condominium Act and otherwise to the Association, and not to any Mortgagee.

The Insurance Trustee or the Association as applicable shall hold any insurance proceeds in trust for Unit Owners, Mortgagees and other lien holders as their interests may appear. The Board of Directors shall cause the Insurance Trustee or the Association to obtain a surety bond in 100% of the amount of the insurance proceeds for the faithful performance of the duties as insurance trustee before it shall be entitled to receive such proceeds. Subject to the provisions of this Article, the Bylaws and Section 1603-113(e) of the Condominium Act, the proceeds shall be disbursed first for the repair or restoration of the damage to the Common Elements. Unit Owners, Mortgagees and other lien holders are not entitled to receive payment of any portion of the proceeds, unless either (i) there is a surplus of proceeds after the damaged Common Elements have been repaired or restored, or (ii) the decision has been made not to repair or restore the damage as provided in Section 1603-113(h) of the Condominium Act, or (iii) the Condominium is terminated in whole or part.

D. Liability Insurance. The Board of Directors shall obtain and maintain, as a Common Expense, comprehensive general public liability insurance (including medical payments insurance) and property damage insurance in such limits as the Board may from time to time determine, insuring each Board of Directors member, the managing agent, each Unit Owner and the Declarant against any liability to the public or to the Unit Owners (and their invitees, agents and employees) covering all occurrences commonly insured against for death, bodily injury or property damage, arising out of the maintenance, ownership or use of the Common Elements (and also with respect to the fee interest in Easement Area #1 owned by the City of Portland, which area consists generally of the main road, and adjoining sidewalk and drainage facilities, including gravel wetlands 1, 3 and 8), and for any legal liability resulting from suits or actions related to employment contracts to which the Association is a party. Such insurance shall expressly cover any liability of Declarant as owner of the fee of the main road and adjoining sidewalk and drainage facilities, (including gravel wetlands 1, 3 and 8) (Easement Area #1 as described in Schedule A hereto). Such insurance shall be issued on a comprehensive liability basis and shall contain: (a) a cross liability

endorsement, under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured; (b) hired and non-owned vehicle coverage; (c) a "severability of interest" endorsement, which shall preclude the insurer from denying liability to a Unit Owner because of negligent acts of the Association or of another Unit Owner; and (d) a broad form liability extension endorsement including "personal injury," contractual liability, and other coverage commonly included in such broad form endorsement. The Board of Directors shall review such limits once each year, but in no event shall such insurance be less than one million dollars (\$1,000,000.00) covering all claims for bodily injury or property damage arising out of one occurrence.

E. Additional Required Provisions. All insurance policies required to be carried by the Association under this Article shall in addition contain the following provisions or features:

(i) The insurer waives any right to claim by way of subrogation against the Declarant, the Association, the Board of Directors, the managing agent or the Unit Owners, and their respective agents, employees and visitors;

(ii) The Declarant, so long as the Declarant shall own any Unit, shall be protected by all such policies as a Unit Owner;

(iii). Each Unit Owner is an insured person under the policy with respect to liability arising out of the ownership of an undivided interest in the Common Elements or membership in the Association;

(iv) The insurer waives its right to subrogation under the policy against any Unit Owner;

(v) No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

(vi) If at the time of a loss under the Association's policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

F. Other Insurance. The Board of Directors shall obtain and maintain as a Common Expense:

(i) To the extent reasonably available, "directors and officers" liability insurance, to satisfy the indemnification obligations of the Association;

(ii) Workers' compensation insurance, if and to the extent necessary to meet the requirements of law;

(iii) Flood insurance if any or all of the Property is located in a special flood hazard area equal to the greater of 100% of the insurable value of the Property or the maximum coverage available under the appropriate national Flood Insurance Administration program. A blanket or master policy shall be obtained which includes a maximum deductible of the lesser of \$5,000 or one percent (1.00%) of the policy face amount; and

(iv) Such other insurance as the Board of Directors may determine, as may be requested by a majority of the Unit Owners (including, without limitation, "fidelity bond" coverage).

G. Memoranda and Cancellation. All insurers that shall issue an insurance policy or policies under this Article shall issue certificates or memoranda of insurance to the Association, and, upon request, to any Unit Owner or Mortgagee.

All such insurers issuing the policy may not cancel (including cancellation for non-payment of premium), substantially modify, or refuse to renew such policy or policies until twenty (20) days after notice of the proposed cancellation of non-renewal has been mailed to the Association, the Declarant, the managing agent, each Unit Owner and each Mortgagee to whom a certificate or memorandum of insurance has been issued at their respective last known addresses.

H. Separate Insurance to be Maintained by Owners. Each Unit Owner shall, at his own expense, obtain insurance for his Unit, any Unit improvements and fixtures, furniture, furnishings or other personal property supplied or installed by Unit Owners and personal property and for his personal liability as well as upon any improvements made by him to his Unit under coverage normally called "improvements and betterments coverage," whether installed before or after the date of the recording of this Declaration, and all Limited Common Elements related to the Unit owned by the Unit Owner, provided however, that no Unit Owner shall be entitled to exercise his right to acquire or maintain such insurance coverage which would decrease the amount which the Association on behalf of all Unit Owners may realize under any insurance policy maintained by the Association, or to cause any insurance coverage maintained by the Association to be brought into contribution with insurance coverage obtained by a Unit Owner. All such Unit Owner's policies shall contain waivers of subrogation against the Association.

THE OWNER'S INSURANCE SHALL BE THE SOLE SOURCE OF RECOVERY FOR ANY INJURY OR DAMAGE TO THE UNIT OF THE UNIT OWNER AND ITS CONTENTS, INCLUDING, BUT NOT LIMITED TO, DAMAGE BY FIRE, THEFT, VANDALISM, WATER DAMAGE OR OTHER CASUALTY, AND FOR ANY INJURIES WITHIN THE UNIT TO THE UNIT OWNER AND THE UNIT OWNER'S AGENTS, SERVANTS, INVITEES, EMPLOYEES OR GUESTS AND THE PERSONAL PROPERTY IN THE UNIT. EACH OWNER SPECIFICALLY WAIVES ANY RIGHTS OF SUBROGATION BY THE UNIT OWNER'S INSURER AGAINST THE ASSOCIATION FOR ANY INJURY OR DAMAGE TO THE UNIT AND ITS CONTENTS, INCLUDING, BUT NOT LIMITED TO, DAMAGE BY FIRE, THEFT, VANDALISM, WATER DAMAGE OR OTHER CASUALTY, AND FOR ANY INJURIES WITHIN THE UNIT TO THE UNIT OWNER AND ITS AGENTS, SERVANTS, INVITEES, EMPLOYEES OR GUESTS AND ANY PERSONAL PROPERTY. EACH UNIT OWNER WAIVES ANY CLAIMS AGAINST THE ASSOCIATION FOR SUCH LOSSES, EVEN IF DUE TO THE ALLEGED OR ACTUAL NEGLIGENCE OR FAULT OF THE ASSOCIATION.

At the request of the Association any Unit Owner who obtains an individual insurance policy covering any portion of the Condominium shall file a certificate or copy of such individual policy or policies with the Board of Directors within thirty (30) days after the purchase of such insurance but failure to request or provide such certificate or insurance copies shall not impair any terms of this Declaration.

#### ARTICLE XII: ADDITIONAL RESTRICTIONS ON USE, OCCUPANCY OR ALIENATION

A. Use and Occupancy Restrictions. Each Unit shall be occupied and used subject to the following restrictions: (1) each Unit will be used solely for nonresidential purposes; (2) each Unit will be used solely for such purposes as permitted from time to time under the Zoning Ordinance of the City of Portland; and (3) each Unit will be subject to reasonable rules and regulations as adopted by the Association from time to time. Nothing in this Declaration shall be construed to prohibit the Declarant from exercising any easements and rights reserved by the Declarant pursuant to this Declaration for any purposes including promotional, marketing or display purposes, from using any appropriate portion of the Common Elements for exercising these reserved rights, settlement of sales of Units and for customer service purposes, or from leasing Units owned by Declarant as provided in this Declaration.

B. Buildings; Design Review. No Building (or other structure) shall be erected, altered or

placed within any Unit unless its design, location (including certification by a licensed surveyor that all structures to be built shall be within the boundaries of the Unit), utility siting, exterior siding, roofing and trim materials, and all auxiliary structures are consistent with the site plan approved by the City of Portland Planning Board. Each Unit Owner erecting a Building within a Unit shall construct the Unit in accordance with the approved plans and specifications and at the Unit Owner's sole cost and expense. All construction activities, including the siting of a Building, shall be in accordance with all local, state and federal laws, codes, ordinances and regulations. Prior to the commencement of excavation, clearing, construction, reconstruction, or alteration of any improvements on any Unit, the Unit Owner shall obtain all required permits and approvals from the City of Portland Planning and Urban Development Department. All improvements to a Unit shall be constructed in accordance with the Approved Plans for that Unit. All material modifications to or variances from the Approved Plans during construction must be approved in advance.

C. Construction Standards. The standards and requirements for construction of buildings and site work on the Property set forth in the Design Guidelines attached hereto as Schedule F are intended to insure that all such buildings and site work will be of design, quality, workmanship and materials which are compatible and harmonious with the natural setting of the area and the other buildings on the Property. All construction of any improvements upon any Unit and Limited Common Element area shall be completed in accordance with such standards and requirements. All buildings must comply with the City of Portland's Green Building Code. The Declarant, during the Declarant Control Period, and thereafter, the Association, with the prior written consent of a majority of the Unit Owners, may waive any provision of the Design Guidelines; any such waiver shall not be binding unless set forth in writing and signing by the parties agreeing to the waiver. Nothing herein shall relieve a Unit Owner from the obligation to seek a waiver from the Portland Planning Board; provided that no Unit Owner shall seek a waiver of the Design Guidelines from the Portland Planning Board without first receiving a waiver from the Declarant or the Association.

D. City of Portland Site Plan Ordinance Requirements. Notwithstanding the foregoing, all site plans for each Unit and for the Limited Common Elements shall be subject to the Site Plan Review requirements set forth in Chapter 14 of the City of Portland's Code of Ordinance. The Association shall not have the authority to waive or alter any design review, construction or other conditions imposed by the City of Portland Planning Board pursuant to such Ordinance, except to the extent that any such conditions are modified by the Planning Board.

E. Use and Maintenance of Units. Each Unit Owner shall be solely responsible for the maintenance, replacement and repair of its Unit and shall keep its Unit free from rubbish and trash of any kind. Each Unit Owner shall keep trash, garbage and other waste in sanitary containers and any sand, gravel, salt or similar materials in appropriate locations within the boundaries of a Unit, and in accordance with all local, state and federal laws, codes, ordinances and regulations, and any Rules and Regulations established by the Association's Executive Board. No Owner shall do or permit to be done any act in the Condominium or within a Unit which may be, or is, or may become a nuisance as defined by state or local ordinances or regulations. Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance for the Property or any part thereof applicable without the prior written consent of the Executive Board. No Unit Owner shall permit anything to be done or kept in its Unit or in the Common Elements which will result in the cancellation of insurance on the Property or any part thereof or which would be in violation of any law, regulation or administrative ruling. No waste will be committed on the Unit or the Common Elements. Trash, garbage and other waste shall be kept only in sanitary containers and shall be disposed of in such manner as may be prescribed from time to time in the Rules and Regulations established by the Executive Board. No articles of personal property belonging to any Unit Owner shall be stored in any portion of the Common Elements except in a storage area specifically designated by the Executive Board or the managing agent, if any. No Unit Owner shall make any alterations, repairs or modifications to or connections with the common utility lines or facilities serving the

Property without the prior written consent of the Executive Board or a committee designated by the Executive Board, as appropriate. The City of Portland shall not be responsible for providing any services to the Unit Owners or the Association such as waste removal, snow plowing or road maintenance or repair.

F. Leasing Restrictions. No Unit Owner shall lease a Unit other than by written lease requiring the lessee to comply with the Condominium Documents and rules and regulations of the Association. Subject to applicable land use and zoning restrictions, portions of less than the entire Unit may be leased, subleased or licensed. Each Unit Owner shall, promptly following the execution of any lease of a Unit, notify the Association in writing of the name of the tenant and the term of the lease and any options in the lease to renew, extend or purchase. The Declarant retains and reserves the right, without complying with the restrictions contained in the foregoing Paragraphs, to enter into leases with any persons for the occupancy of any of the Units owned by the Declarant during the period ending 30 years from the date of this Declaration, except that no lease will be entered for a term of less than 30 days.

G. Voluntary Resale of Units. The following provisions apply to the sales of Units by all Unit Owners other than the Declarant: No Unit Owner shall be liable for the payment of any part of the Common Expenses assessed against his Unit subsequent to the date of recordation of a bona fide conveyance in fee of such Unit by the Owner. In a voluntary transfer of a Unit, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments and special assessments for Common Expenses made by the Executive Board against the latter up to the time of the recordation of grantor's transfer, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any person who shall have entered into an agreement to purchase a Unit from a Unit Owner shall be entitled to a certificate from the Executive Board as provided by Section 1604-108(b) of the Act, and the grantee shall not be liable for, nor shall the Unit conveyed by subject to a lien for, any assessments or unpaid special assessments made by the Executive Board against the grantor for Common Expenses in excess of those disclosed on such certificate. All Unit Owners shall comply with Section 1604-108 of the Act. Except as provided in this Article, there are no other restrictions governing the voluntary transfer of a Unit.

H. Rules and Regulations. Each Unit, appurtenant Limited Common Elements and the Common Elements shall be subject to all restrictions contained in the Unit deed, this Declaration, the Bylaws of the Association, and any reasonable Rules and Regulations adopted by the Association from time to time, as amended from time to time. The Association and the Unit Owners shall also comply with all applicable laws, governmental regulations and ordinances and land use permit and license requirements.

I. Title. Every Unit Owner shall promptly cause to be duly recorded the deed, lease, assignment or other conveyance to it of its Unit or other evidence of its title thereto and file such evidence of its title with the Executive Board through the Secretary or Manager.

### ARTICLE XIII: APPLICABILITY; COMPLIANCE AND DEFAULT

A. Applicability. This Declaration shall be applicable to the Property. All present and future Owners and tenants, their guests, servants, agents and employees and any other person or persons that shall be permitted to use a Unit or the Common Elements shall be subject to this Declaration, the Bylaws and to such rules and regulations as may be issued by the Executive Board of the Association from time to time to govern the conduct of its members and the use and occupancy of the Property. Ownership, rental or occupancy of any of the Units in the Condominium shall be conclusively deemed to mean that said Owner, tenant or occupant has accepted and ratified this Declaration, the Bylaws and the rules and regulations of the Association and will comply with them. The acceptance of a deed or conveyance (other than as security) or the entering into of a lease or the entering into of occupancy of any Unit (other than possession by a Mortgagee prior to either the completion of foreclosure or the acceptance of a deed to the Unit subject to the

Mortgage held by such Mortgagee) shall signify that the provisions of this Declaration and the Bylaws, the rules and regulations of the Condominium and the decisions of the Executive Board are accepted and ratified by such Owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were recited and stipulated at length in each and every deed or conveyance or lease thereof.

B. Compliance and Default. (1) Each Unit Owner shall be governed by and shall comply strictly with the terms, covenants, conditions and restrictions of this Declaration, Bylaws and the rules and regulations adopted pursuant thereto, and the same as they may be amended from time to time. The Executive Board shall have the power to adopt, amend and enforce compliance with such reasonable rules and regulations relative to the operation, use and occupancy of the Units and the Common Elements consistent with the provisions of this Declaration and the Act, including, but not limited to the appointment of such committees and the enactment and enforcement of such enforcement procedures and penalties for violations as the Executive Board shall deem appropriate. Any such rules and regulations shall be adopted or amended, from time to time, by means of appropriate resolutions duly approved by the Executive Board in accordance with the Bylaws. A copy of such rules and regulations and copies of any amendments thereto shall be delivered or mailed to each Owner or occupant of a Unit promptly after the adoption thereof and shall become binding upon all Owners, their successors in title and assigns, and occupants. Failure of a Unit Owner to comply with the terms of this Declaration, the Bylaws and the rules and regulations adopted pursuant thereto, as the same may be amended from time to time, shall entitle the Association or Unit Owners to the remedies provided in this Declaration and the Act, and also to the following relief, none of which remedies shall be exclusive of any other remedies: (1) Suits: Failure to comply with the terms of this Declaration, the Bylaws and the rules and regulations adopted pursuant thereto, as the same may be amended from time to time, shall entitle the Association or any aggrieved Unit Owner to sue for the recovery of damages or for injunctive relief, or both; such relief shall not be exclusive of other remedies provided by law; (2) Costs and Attorney's Fees: In any proceeding arising because of an alleged failure of a Unit Owner to comply with the terms of the Condominium Documents and rules and regulations adopted pursuant thereto, as the same may be amended from time to time, the prevailing party shall be entitled to recover the costs of the proceeding and reasonable attorney's fees; provided, however, that no attorney's fees may be recovered against the Executive Board in any such action unless the court shall first expressly find that the Executive Board acted in bad faith. (3) No Waiver of Rights: The failure of the Declarant, or the Executive Board, or any Unit Owner to enforce any covenant, restriction or other provision of the Act, the Condominium Documents or the rules and regulations adopted pursuant thereto, shall not constitute a waiver of the right to do so thereafter.

C. Appeal and Hearing Procedure; Actions by Owners. No Unit Owner shall have the right to object, challenge, commence any suit at law or in equity or take any other action under any act, power or authority now in force or hereafter adopted except after following such procedures as are established by the Executive Board by rule or regulation consistent with the provisions of this Paragraph. The Executive Board, or a committee as may be appointed by the Executive Board, shall hear appeals from Unit Owners or lessees of alleged violations of the Condominium Documents and rules and regulations of the Association. Unit Owners shall not have the right to appeal assessments for or collections of assessments for Common Expenses. The Executive Board or such committee shall hold a hearing on any such appeal within thirty (30) days after the receipt by the Executive Board of a formal notice of appeal from a Unit Owner or resident. A decision shall be issued in writing by the Executive Board within ten (10) days after the conclusion of the hearing. The Executive Board shall have the right to establish various rules and procedures governing the operation and administration of the appeal and hearing process and the enforcement of the Condominium Documents and rules and regulations. Unless the internal remedies provided by this Paragraph and such rules and regulations as may be promulgated by the Executive Board shall be expressly waived by the Association or the Association fails or refuses to act, no action at law or in

equity shall be commenced by any Unit Owner or resident until such internal remedy is pursued to exhaustion. Any action by a Unit Owner against any other Unit Owner or resident arising out of any term, covenant or condition contained in the Condominium Documents or any rule or regulation made pursuant thereto shall be subject to the same procedures. In hearings before the Executive Board or the committee designated by the Executive Board, all parties shall be entitled to be represented by counsel.

#### ARTICLE XIV: MORTGAGES OF UNITS; RIGHTS OF MORTGAGEES

A. Right to Mortgage. Each Unit Owner shall have the right to mortgage or encumber his own respective Unit together with the Allocated Interests appurtenant to such Unit. Except as otherwise permitted by Section 1603-112 of the Act and subject to this Declaration, no Unit Owner shall have the right or authority to mortgage or otherwise encumber in any manner whatsoever the Common Elements or any part thereof except his own Unit and the Limited Common Elements and Allocated Interests appurtenant to his Unit. A Unit Owner who mortgages his Unit shall notify the Executive Board in writing of the name and address of his Mortgagee(s) and shall file a conformed copy of the note and mortgage with the Executive Board; provided, however, that failure to do so shall not in any way affect the validity or enforceability of any mortgage.

B. Mortgage Foreclosure. Any Mortgagee of a Unit holding a recorded first mortgage on a Unit that obtains title to the Unit pursuant to the remedies provided in the Mortgage, or through a completed foreclosure of the Mortgage, or through deed (or assignment) in lieu of foreclosure, shall take the Unit with the Allocated Interests appurtenant thereto free of such claims and liens for unpaid assessments for Common Expenses, interest and costs levied against such Unit which accrue prior to the acquisition of title to such Unit by the Mortgagee, other than the proportionate share of the Common Expenses which become due and payable from and after the date on which the Mortgagee shall acquire title to the Unit through a completed foreclosure of deed (or assignment) in lieu of foreclosure.

C. Notices to Eligible Mortgage Holder. The Association shall send written notice by prepaid United States mail to each Eligible Mortgage Holder at the address identified pursuant to Article XVII(C) of this Declaration of the following proposed actions either within a reasonable period prior to the taking of any such proposed actions or at the time that notice thereof is given to Unit Owners unless another time is specified herein: (1) any condemnation loss or any casualty loss which affects a material portion of the Condominium or any Unit in which there is a first Mortgage held by such Eligible Mortgage Holder; (2) notice of any default or delinquency in the payment of assessments for Common Expenses or any other charges owed by an Owner of a Unit subject to a Mortgage held of record by such an Eligible Mortgage Holder, or any other default in the performance or payment by such an Owner of a Unit of any obligation under this Declaration, the Bylaws or any rules and regulations of the Association, which delinquency or other default continues for a period of sixty (60) days, to the Eligible Mortgage Holder of the Mortgage to which such Owner's Unit is subject; (3) any lapse, cancellation or material modification of any insurance policy or fidelity bond required to be maintained under the Declaration or Bylaws by the Association; (4) the proposed use of any proceeds of Property Insurance required to be obtained and maintained by the Association pursuant to Section 1603-113, subsection (a) of the Act, for purposes other than repair or restoration of the damaged property; (5) the adoption by the Executive Board of any proposed budget under Section 1603, subsection (c) of the Act, the date of the meeting of Unit Owners scheduled to consider ratification of such proposed budget, and a summary of the proposed budget; (6) any proposed action which would require the consent of a specified percentage of Eligible Mortgage Holders as specified in Paragraph E of this Article; (7) the termination of the Condominium pursuant to Section 1602-118 of the Act and this Declaration; (8) a change in the Allocated Interests appurtenant to any Unit, a change in the boundaries of a Unit, or the subdivision of a Unit; (9) the merger or consolidation of the Condominium with another condominium; or (10) the conveyance or subjection to a security interest of any portion of the Common Elements. Upon written request of any Eligible Mortgage Holder, the Association will provide an audited

financial statement of the Association for the preceding fiscal year.

D. Mortgagee Approval Rights. For purposes of this Paragraph and the following subparagraphs, where approval by a stated percentage of Eligible Mortgage Holders is required, such approval shall be based upon one (1) vote for each Unit on which a mortgage is held. Any repair, replacement or restoration of the Condominium, after a partial condemnation or damage due to an insurable hazard, shall be performed as provided in this Declaration, unless other action is approved by at least fifty-one (51%) percent of Eligible Mortgage Holders. Any election to terminate the legal status of the Condominium pursuant to Section 1602-118 of the Act, and this Declaration after substantial destruction or a substantial taking in condemnation of the Condominium Property shall require the approval of at least fifty-one (51%) percent of all Eligible Mortgage Holders. Any abandonment or termination of the legal status of the Condominium pursuant to Section 1602-118 of the Act by act or omission for reasons other than said substantial destruction or taking shall require the prior written approval of at least fifty-one (51%) percent of Eligible Mortgage Holders of first Mortgages on Units. Any abandonment, partition, subdivision, encumbrance, sale or transfer of any of the Common Elements (except for grant easements for utilities or other public purposes consistent with the intended use of the Common Elements) by act or omission shall require the prior written approval of at least fifty-one (51%) percent of the Eligible Mortgage Holders. With respect to amendments to the Condominium Documents other than amendments to the Condominium Documents or termination of the Condominium made as a result of destruction, damage, or condemnation as provided in this Article, the approval of at least fifty-one percent (51%) of the Eligible Mortgage Holders shall be necessary to terminate the Condominium as provided hereinabove.

The written consent or approval of at least fifty-one (51%) percent of the Eligible Mortgage Holders of Units affected by such amendments, shall be required to add or amend any material provisions of the Condominium Documents which establish, provide for, govern or regulate any of the following matters: (i) Voting; (ii) assessments, assessment liens or subordination of such liens; (iii) reserves for maintenance, repair and replacement of the Common Elements (or Units if applicable); (iv) insurance or fidelity bonds; (v) rights to use of the Common Elements; (vi) responsibility for maintenance and repair of the Common Elements of the Condominium; (vii) expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium; (viii) the interests in the Common Elements or Limited Common Elements; (ix) convertibility of Units into Common Elements or of Common Elements into Units; (x) leasing of Units; (xi) imposition of any restriction on a Unit Owner's right to sell, transfer, or otherwise convey his Unit; (xii) any proposed action described in Paragraph C(4), C(7), C(8), C(9) or C(10) of this Article; (xiii) a decision by the Association to establish self-management when professional management had previously been required by an Eligible Mortgagee; or (xiv) any provisions which are for the express benefit of Eligible Mortgage Holders. An addition or amendment to the Condominium Documents shall not be considered material if it is for the purpose of correcting technical errors.

An Eligible Mortgage Holder who receives a written request to approve any additions or amendments which do not constitute either a material change to the Condominium Documents or any amendment described in the preceding paragraph hereof and who does not deliver to the requesting party a negative response within thirty (30) days after the giving of notice shall be deemed to have approved such request in writing.

E. Voting and Other Rights of Eligible Mortgage Holders. In the event of any default by a Unit Owner in payment of assessments or performance of obligations pursuant to the Condominium Documents as more fully described in Paragraph C(2) of this Article, the Eligible Mortgage Holder of the Mortgage on such Owner's Unit shall have the right but not the obligation to cure such default. In addition to, but not by way of limitation of, all rights granted to Eligible Mortgage Holders pursuant to this Declaration to cast the votes allocated to a Unit in lieu of the Unit Owner, any Eligible Mortgage Holder, or its representative, shall

have the right to attend meetings of the Association and Executive Board of the purposes of discussing the matters described in Paragraphs C(4), C(5), C(7), C(8), C(9) and C(10). No provision of the Condominium Documents shall be deemed or construed to give a Unit Owner, or any other person, priority over the rights of any Eligible Mortgage Holder pursuant to its Mortgage in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Units, Common Elements, or both. Each Eligible Mortgage Holder shall be entitled to examine the financial records and books of account of the Association upon reasonable prior written notice to the Association.

F. Rights of First Refusal. Notwithstanding anything to the contrary elsewhere contained in this Declaration, the Bylaws or said rules and regulations, in the event that the Unit Owners in the future adopt any right of first refusal (which right may be adopted only by amending this Declaration) in the case of the sale of any Unit, such right of first refusal shall not affect, impair or apply to the right of any Mortgagee to: (1) foreclose or take title to the Unit pursuant to the remedies provided in the Mortgage, (2) accept a deed (or assignment) in lieu of foreclosure in the event of a default by a mortgagor, or (3) sell or lease a Unit acquired by the procedures hereinabove set forth.

G. Mortgagee Priority. No provision of the Condominium Documents shall be deemed or construed to give a Unit Owner, or any other person, priority over the rights of any Eligible Mortgage Holder pursuant to its Mortgage in the case of a distribution to Unit Owners of insurance proceeds or condemnation awards for losses to or a taking of Units, Common Elements, or both.

#### ARTICLE XV: AMENDMENTS

Except in cases of amendments to this Declaration that may be unilaterally executed and recorded by the Association as described in Sections 1601-107, Eminent Domain, 1602-108(c), Allocation of Limited Common Elements, 1602-113(a) Reallocation of Boundaries Between Adjoining Units, 1602-113, Subdivision of Units and 1602-1117(a), Amendment of Declaration, of the Act and except in cases of amendments to this Declaration by certain Unit Owners, as described in Sections 1602-108(b), Reallocation of Limited Common Elements, 1602-1112(a), Relocation of Boundaries Between Adjoining Elements, 1602-1113(a), Relocation of Boundaries Between Adjoining Units, 1602-113(b), Subdivision of Units, or 1606-118(b), Termination of Condominium, of the Act, and except in cases of amendments to the Declaration that may be executed by the Declarant under Section 1602-109(f) Plats and Plans or under Section 1602-110, Exercise of Development Rights of the Act, and subject to the other provisions of this Declaration and of the Act, this Declaration and the Plat may be amended as follows:

A. Before Any Conveyance. Prior to the conveyance of any Unit by the Declarant to a Unit Owner other than as security for an obligation, the Declarant shall have the right to amend and re-amend this Declaration in any manner that the Declarant may deem appropriate.

B. After First Conveyance. After the first conveyance of a Unit by a Declarant, the terms of the following subparagraphs shall apply to the amendment of this Declaration:

(1) Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting of the Executive Board in which a proposed amendment is considered, and shall be served upon all Unit Owners in the manner provided in Article XVII(a) for service of notices and upon Eligible Mortgage Holders in the manner identified in Article XVII(C).

(2) Resolution. An amendment may be proposed by either the Executive Board or by Unit Owners holding in the aggregate no less than 1/5th of the votes in the Association. No resolution of the Executive Board adopting a proposed amendment shall be effective unless it has been adopted at a meeting of the Association duly called and held in accordance with the Bylaws of the affirmative vote of at least 2/3rds in

voting interest of the Unit Owners and then executed and recorded as provided in Paragraph B(5) of this Article.

(3) Agreement. In the alternative, an amendment may be made by an agreement signed by the record Owners of the Units to which at least 2/3rds of the votes in the Association are allocated in the manner required for the execution of a deed and acknowledged by at least one of them, and such amendment shall be effective when recorded.

(4) Certain Amendments. Notwithstanding the foregoing provisions of this Article, except as otherwise permitted by the Act and provided in this Declaration, no amendment may increase the number of Units or change the boundaries of any Unit, the Allocated Interests allocated to a Unit, or the uses to which any Unit is restricted without the unanimous consent of the Unit Owners and the consent of the Eligible Mortgage Holders representing or holding mortgages on Units having at least 2/3rds of the votes in the Association. No amendment of this Declaration shall make any change which would in any way affect any of the rights, privileges, powers and options of the Declarant, its successors or assigns, unless the Declarant, or its successors or assigns shall join in the execution of such amendment.

(5) Execution and Recording. A copy of each amendment shall be attached to or included with a certificate, certifying that the amendment was duly adopted, which certificate shall be executed and acknowledged by such officer or officers of the Association and/or member or members of the Executive Board designated for that purpose in the Bylaws. The amendment shall be effective when such certificate and copy of the amendment are recorded.

(6) Notice and Challenge. No action to challenge the validity of an amendment to this Declaration adopted by the Association pursuant to this Article may be brought more than one year after such amendment is recorded. After each amendment to this Declaration adopted pursuant to this Article has been recorded, notice thereof shall be sent to all Unit Owners and to all Eligible Mortgage Holders at the address last furnished to the Executive Board, but failure to send such notices shall not affect the validity of such amendment. The Association shall make copies of the Declaration and all amendments thereto available for inspection at reasonable times upon reasonable request for such inspection.

#### ARTICLE XVI: EASEMENTS AND LICENSES

A. Recorded Easements and Licenses. The recording data for recorded easements and licenses appurtenant to or included in the Condominium or by virtue of any reservation contained in this Declaration are stated and set forth in Schedule A hereto. Declarant also hereby excepts and reserves the conservation easement and related access easements described in Schedule A hereto and Declarant shall have the right to assign such conservation easement and access easements, in common with Declarant, to a conservation trust or land trust or non-profit corporation.

B. Utilities, Pipes and Conduits. Each Unit Owner shall have an easement in common with all other Unit Owners to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements serving his Unit and located in any of the other Units. Each Unit shall be subject to an easement in favor of all other Unit Owners to use the pipes, ducts, cables, wires, conduits, public utility lines and other Common Elements serving such other Units and located in such Unit. The Association and its Executive Board shall have the right to grant to third parties additional permits, licenses and easements over and through the Common Elements for utilities, roads and other purposes reasonably necessary or useful for the proper maintenance and operation of the Condominium.

C. Structural Support. Each Unit shall have an easement to the extent necessary for structural and subjacent support over every other Unit and over the Common Elements, and each Unit and the Common

Elements shall be subject to an easement for structural and lateral support in favor of every other Unit.

D. Ingress, Egress and Regress. Each Unit Owners shall have an easement, subject to any rules and regulations established by the Executive Board, in common with all other Unit Owners to use the entrances, exists, corridors and other Common Elements as a means of ingress, egress and regress to and from the Property and the adjoining public streets. The Executive Board shall not and cannot establish any rules and regulations depriving any Unit Owner of reasonable ingress, egress and regress to and from his Unit, the Property and Common Elements, and the adjoining public streets.

E. Encroachments. If any portion of the Common Elements or Limited Common Elements hereafter encroaches upon any Unit, or if any Unit hereafter encroaches upon any other Unit or upon any portion of the Common Elements or Limited Common Elements, as a result of settling or shifting of any Building or Buildings in which they are located or otherwise than as a result of the purposeful or negligent act or omission of the Owner of the encroaching Unit, or of the Association in the case of encroachments by the Common Elements or Limited Common Elements, a valid easement appurtenant to the encroaching Units, Common Elements or Limited Common Elements for the encroachment and for the maintenance of the same shall exist for so long as the encroachment shall exist. In the event that any Building shall be partially destroyed as a result of fire or other casualty or as a result of taking by the power of, or in the nature of, eminent domain or by an action or deed in lieu of condemnation, and then is rebuilt, encroachments of a portion or portions of the Common Elements or Limited Common Elements upon any Unit or of any Unit upon any other Unit or upon any portion of the Common Elements or Limited Common Elements, due to such rebuilding, shall be permitted, and valid easements appurtenant to the encroaching Units, Common Elements or Limited Common Elements for such encroachments and the maintenance thereof shall exist so long as the Building as so rebuilt shall stand.

F. Common Elements Easement in Favor of Unit Owners. The Common Elements (including, but not limited to, the Limited Common Elements) shall be and are hereby made subject to the following easements in favor of the Units benefited: (1) for the installation, repair, maintenance, use, removal and/or replacement of lighting fixtures, electrical receptacles, and other electrical installations which are Common Elements adjacent to such Unit; provided that the installation, repair, maintenance, use, removal or replacement of any such item does not unreasonably interfere with the use of any part of the Common Elements, adversely affect either the thermal or acoustical character of any Building or impair or structurally weaken any Building; (2) for driving and removing nails, screws, bolts and other attachment devices into the Unit side surface of the stone, block, brick or other masonry walls bounding the Unit and the Unit side surface of the studs which support the dry wall or plaster perimeter walls bounding the Unit the bottom surface of floor joists above the Unit to the extent such nails, screws, bolts and other attachment devices may encroach into a part of a Common Elements adjacent to such Unit; provided that any such action will not unreasonably interfere with the common use of any part of the Common Elements, adversely affect either the thermal or acoustical character of any Building or impair or structurally weaken any Building; and (3) for the maintenance of the encroachment of any lighting devices, outlets, exhaust fans, ventilation ducts, registers, grilles and similar fixtures which serve only one Unit but which encroach into any part of any Common Elements or Limited Common Elements on the date this Declaration is recorded.

G. Association's Rights. The Association shall have a reasonable right of entry upon any Unit to make emergency repairs and to do other work reasonably necessary for the proper maintenance or operation of the Condominium. The Association shall have the right to grant permits, licenses and easements over the Common Elements for utilities, ways and other purposes reasonably necessary or useful for the proper maintenance or operation of the Condominium. The Association has a right of access to each Unit for the purpose of making inspections or for the purpose of correcting any condition originating in this Unit or elsewhere and threatening another Unit or a Common Elements, or for the purpose of performing installations, alterations or repairs to the mechanical or electrical services, other Common Elements or

Units, provided that requests for entry are made in advance and that any such entry is at a time reasonably convenient to the Unit Owner, and provided further that judicial proceedings shall be instituted by the Association before any items of construction can be altered or demolished. In case of an emergency, such right of entry shall be immediate, whether the Unit Owner is present at the time or not.

H. Special Declarant Rights. The Association, Executive Board and others and Declarant, its successors and assigns have the easements specified in this Article of this Declaration entitled Special Declarant Rights.

#### ARTICLE XVII: NOTICES TO UNIT OWNERS BY ASSOCIATION

A. To Unit Owners. All notices, demands, bills, statements or other communications affecting the Condominium shall be given to Unit Owners by the Association in writing and shall be deemed to have been duly given if delivered personally or sent by United States mail, postage prepaid, or if such notification is of a default or lien, sent by registered or certified United States mail, return receipt requested, postage prepaid, addressed to the Unit Owner at the address which the Unit Owner shall designate in writing and file with the Secretary of the Association, or if no such address is so designated, the address of the Unit of such Unit Owner who is the record owner thereof.

B. To the Association. All notices, demands, statements or other communications affecting the Condominium given by the Association shall be in writing and shall be deemed to have been duly given to the Association if delivered personally or sent by United States mail, postage prepaid, return receipt requested, addressed to the Association at the principal office of the managing agent, or if there shall be no managing agent, then to the Secretary of the Association at the address of the Unit of which the Secretary is the record Unit Owner thereof.

C. Eligible Mortgage Holder. All notices, demands or other communications affecting the Condominium given by the Association to any Eligible Mortgage Holder shall be in writing and shall be deemed to have been duly given if delivered personally or sent by United States mail, postage prepaid, addressed to the Eligible Mortgage Holder at the address identified pursuant to this Declaration.

#### ARTICLE XVIII: TAXATION

A. Separate Taxation. If there is any Unit Owner other than the Declarant, each Unit and its Allocated Interests shall be deemed to be a separate tax parcel and shall be separately taxed and assessed by the City of Portland. Except to any extent required by law, neither the Buildings, the Property nor any of the Common Elements shall be deemed to be or assessed as a separate tax parcel.

B. Units Not Yet Separately Assessed. In the event that for any year real estate taxes assessed by the City of Portland are not separately taxed and assessed to each separate Unit Owner but are taxed on the Property as a whole, then each Unit Owner shall pay his proportionate share thereof in accordance with his respective Common Element Liability.

#### ARTICLE XIX: TERMINATION OF CONDOMINIUM

The Condominium shall not be terminated except as provided in and subject to Section 1602-118 of the Act and by agreement of Unit Owners of Units to which at least eighty (80%) percent of the votes in the Association are allocated and at least 80% of the votes of Eligible Mortgage Holders.

ARTICLE XX: INAPPLICABILITY AND WAIVER

EACH UNIT OWNER, TENANT AND THEIR RESPECTIVE CUSTOMERS, CLIENTS, INVITEES, GUESTS, LICENSEES, SERVANTS, EMPLOYEES AND ANY OTHER PERSON OR PERSONS THAT SHALL BE PERMITTED TO USE A UNIT, THE COMMON ELEMENTS, OR BOTH, BY VIRTUE OF OWNERSHIP, RENTAL OR OCCUPANCY OF ANY UNIT, THE COMMON ELEMENTS OR BOTH, WAIVE AND RELINQUISH THE APPLICATION OF ALL THE PROVISIONS, RIGHTS AND REMEDIES PROVIDED IN ARTICLE 4 OF THE ACT RELATING TO EVERY ASPECT OF THE CONDOMINIUM AND THE MARKETING AND SALE OF UNITS.

ARTICLE XXI: MISCELLANEOUS

A. Interpretation; Conflict. In the event of any conflict or discrepancy between this Declaration, the Bylaws and the Plat, this Declaration shall govern. If any provision of this Declaration, the Bylaws or the rules and regulations, or any section, sentence, clause, phrase, or word therein, or the application thereof in any circumstances be judicially held in conflict with any applicable laws, including, but not limited to, the Condominium Act, then the laws shall be deemed controlling; but the validity of the remainder of this Declaration, the Bylaws and rules and regulations, and the application of any such provision, section, clause, phrase, or word in other circumstances shall not be affected thereby and all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of this Declaration or the intent of any provisions hereof. The use of the singular number in this Declaration shall be deemed to include the plural, and the use of any one gender shall be deemed applicable to all genders. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same irrespective of the number of violations or breaches which may occur. Any dispute or disagreement between Unit Owners with respect to interpretation or application of this Declaration or the Bylaws or rules and regulations shall be determined by the Board of Directors, which determination shall be final and binding on all parties.

B. Remedies Cumulative. All rights, remedies and privileges granted to the Executive Board of a Unit Owner pursuant to any terms, provisions, covenants or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies, or privileges as may be granted to such party hereunder or by any instruments or documents incorporated herein by reference or at law or in equity.

C. No Obligation to Construct Buildings or Parking Areas. Nothing contained in this Declaration or on the Plat shall be deemed to impose upon the Declarant, or any successor Declarant, any liability or obligation to build, construct or provide any Buildings, parking areas, amenities or other improvements to the Property.

IN WITNESS WHEREOF, the City of Portland by \_\_\_\_\_, its \_\_\_\_\_, hereunto duly authorized, has executed and delivered this Declaration as of the date first above written.

Signed, Sealed and Delivered  
In the Presence of:

City of Portland

\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, Its \_\_\_\_\_

Portland Technology Park Condominium

Association

\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, Its \_\_\_\_\_

STATE OF MAINE  
CUMBERLAND, ss.

Personally appeared the above-named \_\_\_\_\_, as \_\_\_\_\_ of the City of Portland, this \_\_\_ day of \_\_\_\_\_, 2016 and acknowledged the foregoing instrument to be his free act and deed in said capacity and the free act and deed of said City of Portland.

\_\_\_\_\_  
Notary Public/Attorney-at-Law

**SCHEDULE A**  
**PORTLAND TECHNOLOGY PARK CONDOMINIUM**  
**DECLARATION OF CONDOMINIUM**

A certain lot or parcel of land situated southerly of Rand Road in Portland, Maine and bounded and described as follows:

A certain lot or parcel of land situated on the northerly side of Westbrook Street, so called, along with other land situated northerly of, but not adjacent to said Westbrook Street, in the City of Portland, County of Cumberland, State of Maine, being depicted as Parcel #2 and Parcel #3, on a plan entitled "Standard Boundary Survey — Snyder/Barris Properties - Westbrook. Street, Portland, Maine" dated October 1997, revised 12/01/99, prepared by Land Services Inc. - Land Surveyors - Raymond, Maine, said lots or parcels of land being more particularly bounded and described as follows:

Parcel #2: Beginning at 1" iron pipe at the northeasterly corner of land now or formerly of Central - Maine Power Company (Book 2035, Page 306 C.C.R.D.), and the northwesterly corner of land now or formerly of Central Maine Power Company (Book 2035, Page 351, C.C.R.D.); and the -southwesterly corner of land now or formerly of Simon A. Snyder & Jason A. Snyder (Book 4962, Page 222 C.C.R.D.) and the Theodore Barris & Therese Barris Trust (Book 11815, Page 84 C.C.R.D.);

Thence S 63°-48'-15"W along land of said Central Maine Power Company (Book 2035, Page 306, C.C.R.D.), a distance of 343.63 feet to a granite monument to be set;

Thence N 79°-18'-45"W along land of said Central Maine Power Company (Book 2035, Page 306 C.C.R.D.), a distance of 462.04 feet to a granite monument to be set and land now or formerly of Simon Snyder;

Thence in a general northeasterly direction along land now or formerly of Simon Snyder, and along a circular curve to the right (not tangent to the last described line), circumscribed by a radius of 858.29 feet, an arc distance of all 811.33 feet to a granite monument to be set at a point of reverse curvature;

Thence in a general northeasterly direction along land now or formerly of Simon Snyder, and along a circular curve to the left, circumscribed by a radius of 550.00 feet, an arc distance of 257.33 feet to a granite monument to be set;

Thence N 27°-18'-56"E along land now or formerly of Simon Snyder, a distance of 318.42 feet to a point and land of said Snyder, and Barris Trust;

Thence S 23°-54'-50"E along land of said Snyder and Barris Trust, a distance of 568.32 feet to a 1-1/4" iron pipe;

Thence S 68°-51'-40"W along land of said Snyder and Barris Trust, a distance of 213.99 feet to a 16" caliper tree stump;

Thence S 05°-34'-03"W along land of said Snyder and Barris Trust, a distance of 76.72 feet to a 1-1/4" iron pipe;

Thence S 03°-52'-28"E along land of said Snyder and Barris Trust, a distance of 271.21 feet to a point;

Thence S 18°-02'-23"E along land of said Snyder and Barris Trust, a distance of 170.94 feet to the point of beginning.

The above described parcel contains 13.17 acres. All bearings are referenced to grid north.

Parcel #3: Beginning at a 1" iron pipe at the northeasterly corner of land now or formerly of Central Maine Power Company (Book 2035, Page 306, C.C.R.D.), and the northwesterly corner of land now or formerly of Central Maine Power Company (book 2035, page 351, C.C.R.D.), and the southeasterly corner of land now or formerly of Simon A. and Jason. A. Snyder (Book 4962, Page 216, C.C.R.D.);

Thence N 18°-02'-23"W along land of said .Snyder, a distance of 170.94 feet to a point;

Thence N 03°-52'-28"W along land of said Snyder, a distance of 271.21 feet to a 1-1/4" iron pipe;

Thence N 05°-34'-03"E along land of said Snyder, a distance of 76.72 feet to a 16" caliper stump;

Thence N 68°-51'-40"E along land of said Snyder, a distance of 213.99 feet to a 1-1/4" iron pipe;

Thence N 23°-54'-50"W along land of said Snyder, a distance of 568.32 feet to a point, and land now or formerly of Simon Snyder;

Thence N 27°-18'-56"E along land now or formerly of Simon Snyder, a distance of 221.04 feet to a granite monument to be set;

Thence N 71°-58'-27"E along land now or formerly of Simon Snyder, a distance of 129.63 feet to a granite monument to be set;

Thence in a general easterly direction along land now or formerly of Simon Snyder, and along a circular curve to the left (not tangent to the last described line) circumscribed by a radius of 1180.00 feet, an arc distance of 496.51 feet to a granite monument to be set;

Thence N 81°-40'-58"E along land now or formerly of Simon Snyder, a distance of 369.39 feet to a granite monument to be set;

Thence N 62°-51'-57"E along land now or formerly of Simon Snyder, a distance of 112.43 feet to a granite monument to be set, and land now or formerly of Simon A. Snyder & Jason A. Snyder, and the Theodore Barris & Therese Barris Trust (Book 14687, Page 118 C.C.R.D.);

Thence S 25°-07'-48"E along land of said Snyder, and Barris Trust, and along land now or formerly of Union Water-Power Company (Book 14420, Page 130, C.C.R.D.), a distance of 670.92 feet to a granite monument to be set and the northeasterly corner of land now or formerly of Central Maine Power Company (Book 2035, Page 351, C.C.R.D.);

Thence S 79°-15'-29"W along land of said Central Maine Power Company (Book 2035, Page 351, C.C.R.D.), a distance of 390.28 feet to a granite monument to be set;

Thence S 48°-17'-29"W along land of said Central Maine Power Company (Book 2035, Page 351, C.C.R.D.), a distance of 833.98 feet to a granite monument to be set;

Thence S 63°-48'-15"W along land of said Central Maine Power Company (Book 2035 Page 351, C.C.R.D.), a distance of 408.29 feet to the point of beginning;

The above described parcel contains 26.82 acres. All bearings are referenced to grid north.

Together with the rights and easements relating to such parcels described or referenced in the deed from Simon A. Snyder et al. to the City of Portland, dated December 7, 1999 and recorded in the Cumberland County Registry of Deeds, Book 15211, Page 31.

Notwithstanding the foregoing, the City of Portland excepts and reserves the fee title to Easement Area #1 described below and does not submit the fee title of Easement Area #1 to this Declaration of Condominium, but does submit to this Declaration of Condominium and hereby grants for the benefit of the owners of each Unit in the Condominium, their respective heirs, successors and assigns, described below and for the benefit of the Portland Technology Park Condominium Association, its successors and assigns, the following described perpetual rights and easements for the following described purposes across said Easement Area #1, which easements shall be appurtenant to and run with the land described above in this Schedule A and shall be for the following described purposes:

a. Access Right of Way: The perpetual right and easement to pass and repass on foot and with vehicles at any and all times together with the right to enter from time to time within said areas to inspect, install, construct, maintain, repair, rebuild, replace and remove fill, pavement and other facilities and appurtenances intended to facilitate or improve access over such premises.

b. Utilities: Together with the perpetual right and easement to install, construct, erect, lay, relay, repair, inspect, operate, maintain, rebuild, replace and remove utility conduits, pipes and mains, and poles and wires with all necessary fixtures and appurtenances upon, through, under or over such premises for any and all utilities including but not limited to electric power, transmission and distribution lines, other energy, transmission and distribution lines, gas mains, cable-television, telephone and other communications or intelligence lines, together with suitable and sufficient lines, pipes, cables, mains, poles and towers with sufficient foundations together with wires strung upon and extending between the same, above or below ground, together with all necessary facilities, fixtures, anchors, guys, crossarms, and other equipment and appurtenances and also for conveying and transmitting water, sewerage, wastewater and other liquids and substances together with the right at all times to make connection with all of said facilities to land adjoining the premises.

c. Drainage: Together with the perpetual right and easement to enter such areas and to install, construct, lay, relay, maintain, inspect, repair, rebuild, replace and remove drainage lines, pipes, swales, conduits, manholes, gravel wetlands, mains and other equipment and facilities for drainage purposes together with all necessary fixtures and appurtenances, and to make connection therewith to the property described in Schedule A, and to flow and direct water into such areas.

d. Landscaping: Together with the perpetual right and easement to fill, grade, landscape, seed, plant grass, trees and shrubs, to mow, cut and trim the same and to remove and replace the same.

e. Related Rights: Together with the perpetual right and easement in connection with or in exercising any of the above described rights to enter such areas and to work, fill, excavate, tunnel, trench and/or landfill with such areas, and to trim, clear, cut down and remove trees, timber and bushes to such extent as is reasonably necessary or appropriate for any of the above described purposes.

Easement Area #1 is bounded and described as follows (such easement area being the location of the main road (and the adjoining sidewalk and drainage facilities) that provides access to the Units or to the Limited Common Element driveways that lead to the Units):

Commencing at a point on the southerly sideline of Rand Road, said point being marked with a 5/8" rebar with cap (PLS#2002) located at the northeasterly corner of a parcel of land now or formerly of the City of Portland as described in a deed recorded in Book 15211, Page 31 of the Cumberland County Registry of Deeds; thence, from said Point of Commencement, S62°51'57"W a distance of one hundred twelve and 43/100 (112.43') feet along the southerly sideline of Rand Road to a 5/8" rebar with cap (PLS #2002) found, thence S81°40'58"W a distance of three hundred sixty nine and 39/100 (369.39') feet along the southerly sideline of Rand Road to a 5/8" rebar with cap (PLS #2002) found, thence Westerly along the southerly sideline of Rand Road a distance of forty eight and 62/100 (48.62') feet along a curve to the right with a radius of one thousand one hundred eighty and 00/100 (1180.00') feet to a monument to be set and the Point of Beginning of Easement Area 1 herein described,

Thence from said Point of Beginning Southwesterly a distance of two hundred eighty one and 21/100 (281.21') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred thirty and 00/100 (230.00') feet to a monument (to be set), said curve having a chord bearing of S37°22'03"W and a chord distance of two hundred sixty four and 02/100 (264.02) feet

Thence S35°54'43"E a distance of twenty and 97/100 (20.97') feet to a point,

Thence Southwesterly a distance of forty and 37/100 (40.37') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred fifty and 00/100 (250.00') to a point, said curve having a chord bearing of S75°30'34"W and a chord distance of forty and 32/100 (40.32) feet,

Thence S80°08'06"W a distance of one hundred twenty five and 99/100 (125.99') feet to a monument (to be set),

Thence Southwesterly a distance of one hundred seventy five and 29/100 (175.29') feet along a curve to the left with a radius of one hundred fifty and 00/100 (150.00') feet to a monument (to be set),

Thence S12°59'08"W a distance of one hundred forty two and 05/100 (142.05') feet to a monument (to be set),

Thence Southwesterly a distance of one hundred forty three and 10/100 (143.10') feet along a curve to the right with a radius of three hundred fifty and 00/100 (350.00') feet to a monument (to be set),

Thence S36°24'40"W a distance of forty two and 76/100 (42.76') feet to a point,

Thence Southwesterly a distance of one hundred forty one and 33/100 (141.33') feet along a curve to the right with a radius of three hundred thirty nine and 00/100 (339.00') to a point,

Thence S75°00'00"W a distance of sixty nine and 87/100 (69.87') feet to a point,

Thence S15°00'00"E a distance of seventeen and 60/100 (17.60') feet to a point,

Thence S29°19'50"W a distance of seventy five and 02/100 (75.02') feet to a point

Thence S87°29'56"W a distance of nineteen and 03/100 (19.03') feet to a point,

Thence Southwesterly, westerly and northwesterly a distance of two hundred seventy three and 30/100 (273.30') feet along a curve to the right (not tangent with the previous course) with a radius of eighty five and 00/100 (85.00') feet to a point, said curve having a chord bearing of N76°47'08"W and a chord distance of one hundred sixty nine and 88/100 (169.88') feet,

Thence N50°49'40"E a distance of one hundred ninety and 32/100 (190.32') feet to a point,

Thence Northeasterly a distance of seventy one and 09/100 (71.09') feet along a curve to the left (not tangent with the previous course) with a radius of eighty nine and 00/100 (89.00') feet to a point, said curve having a chord bearing of N71°42'16"E and chord distance of sixty nine and 21/100 (69.21') feet,

Thence Northeasterly a distance of twenty six and 82/100 (26.82') feet along a reverse curve to the right with a radius of ninety five and 00/100 (95.00') feet to a point, said curve having a chord bearing of N56°54'40"E and chord distance of twenty six and 73/100 (26.73') feet,

Thence N65°00'00"E a distance of five and 88/100 (5.88') feet to a point,

Thence Southeasterly a distance of thirty five and 37/100 (35.37') feet along a curve to the right with a radius of twenty five and 00/100 (25.00') feet to a point, said curve having a chord bearing of S74°28'25"E and chord distance of thirty two and 49/100 (32.49') feet,

Thence N50°25'32"E a distance of sixty two and 08/100 (62.08') feet to a point,

Thence N45°00'00"E a distance of sixty one and 90/100 (61.90') feet to a point,

Thence N23°58'49"E a distance of sixty and 69/100 (60.69') feet to a point,

Thence N63°52'43"W a distance of eight and 11/100 (8.11') feet to a point,

Thence Northeasterly a distance of forty six and 88/100 (46.88') feet along a curve to the left (not tangent with the previous course) with a radius of two hundred seventy and 00/100 (270.00') feet to a monument (to be set), said curve having a chord bearing of N17°57'37"E and chord distance of forty six and 82/100 (46.82') feet,

Thence N12°59'08"E a distance of one hundred forty two and 13/100 (142.13') feet to a monument to be set,

Thence Northeasterly a distance of seventy three and 11/100 (73.11') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred thirty and 00/100 (230.00') feet to a point, said curve having a chord bearing of N22°14'22"E and chord distance of seventy two and 80/100 (72.80') feet,

Thence Northwesterly a distance of sixty four and 22/100 (64.22') feet along a curve to the right (not tangent with the previous course) with a radius of seventy four and 58/100 (74.58') feet to a point, said curve having a chord bearing of N39°39'58"W and chord distance of sixty two and 25/100 (62.25') feet,

Thence N15°00'00"W a distance of two and 94/100 (2.94') feet to a point,

Thence N75°00'00"E a distance of one hundred forty one and 62/100 (141.62') feet to a monument (to be set),

Thence Northeasterly a distance of sixty four and 00/100 (64.00') feet along a curve to the right (not tangent with the previous course) with a radius of two hundred thirty and 00/100 (230.00') feet to a monument (to be set), said curve having a chord bearing of N72°09'49"E and a chord distance of sixty three and 79/100 (63.79') feet

Thence N80°08'06"E a distance of one hundred twenty five and 99/100 (125.99') feet to a monument (to be set),

Thence N32°26'19"E a distance of twenty three and 23/100 (23.23') feet to a point,

Thence N00°04'04"E a distance of seventy nine and 87/100 (79.87') feet to a point,

Thence S89°51'35"E a distance of one hundred fourteen and 00/100 (114.00') to a monument (to be set),

Thence Northerly a distance of fifty six and 12/100 (56.12') feet along a curve to the left (not tangent with the previous course) with a radius of one hundred seventy and 00/100 (170.00') feet to a monument (to be set) at the southerly sideline of Rand Road, said curve having a chord bearing of N14°13'36"E and a chord distance of fifty five and 87/100 (55.87') feet,

Thence Easterly a distance of sixty and 59/100 (60.59') feet along a curve to the left (not tangent with the previous course) and the southerly sideline of Rand Road with a radius of one thousand one hundred eighty and 00/100 (1180.00') feet to the Point of Beginning, said curve also having a chord bearing of N85°30'52"E and chord distance of sixty and 58/100 (60.58') feet.

The above described area is more particularly depicted as "Easement Area 1" on a plan entitled "First Amended Subdivision Plat of Portland Technology Park Condominium – Rand Road – Portland, Maine" prepared by SGC Engineering, LLC and last revised September 28, 2015, which Plan is recorded in the Cumberland County Registry of Deeds, Plan Book \_\_\_\_, Page \_\_\_\_.

The Property described above that is hereby made subject to this Declaration is subject to:

1. Rights and easements granted to Portland Electric Company in an instrument dated July 19, 1907, recorded at said Registry in Book 812, Page 109.

2. Rights and easements granted to Portland Water District in instruments dated June 24, 1932, recorded at said Registry in Book 1399, Page 463, as modified by an Easement Modification Agreement, dated April 10, 2015 and recorded in Book 32209, Page 68; and dated June 3, 1954, recorded at said Registry in Book 2181, Page 48.

3. Rights and easements acquired by the State of Maine as set forth in Notice of Layout and Taking dated December 6, 1977, recorded at said Registry in Book 4146, Page 333 and the premises are also subject to controlled access as a part of the Maine Turnpike Authority's Westbrook/Rand Road Interchange Layout recorded in said Registry of Deeds in Book 16645, Page 311.

4. Terms and conditions of right of way location as set forth in a deed to Central Maine Power Company dated March 7, 1951, recorded at said Registry in Book 2035, Page 306.

5. Rights and easements granted to Portland Water Company in an instrument dated November 13, 1879, recorded at said Registry in Book 594, Page 207.

6. Rights and easements granted to Portland Electric Company in an instrument dated July 19, 1907, recorded at said Registry in Book 812, Page 197.

7. Rights and easement granted to Portland Pipeline Company in an instrument dated August

28, 1941, recorded at said Registry in Book 1646, Page 189, as amended by the Quitclaim Deed Without Covenant from the Portland Pipeline Company to the City of Portland, dated May 24, 2012 and recorded in said Registry, Book 29703, Page 129.

8. Terms and conditions of right of way location as set forth in deed to Harold C. Bonnell, et al. dated February 1, 1939, recorded at said Registry in Book 1573, Page 130, and in deed to Central Maine Power Company dated February 21, 1951, recorded at said Registry in Book 2035, Page 351.

9. Rights and easements acquired by Portland Water District as set forth in Certificate dated July 16, 1912, recorded at said Registry in Book 899, Page 281, and as shown on Plan entitled Portland Water District, South Portland Connection, Right of Way dated June 1912, recorded at said Registry in Plan Book 12, Page 69.

10. Portland Water District Sebago Pipe Line Right of Way as shown on Plans No. 12 and 13 dated July 1910, recorded at said Registry in Plan Book 12, Page 27.

11. Rights and easements reserved by Arthur F. Maxfield, et al. as set forth in an instrument dated September 30, 1957, recorded at said Registry in Book 2378, Page 109.

12. License Agreement by and between Central Maine Power Company, Maine Electric Power Company and AT&T Communications of New England, Inc. as evidenced by Memorandum of License dated February 1, 1994, recorded at said Registry in Book 13368, Page 208.

13. Rights and easements reserved by Central Maine Power Company, and terms, conditions, restrictions, and covenants relating to use, construction and maintenance of right of way, as set forth in deed to Union Water-Power Company dated December 22, 1998, recorded at said Registry in Book 14420, Page 130.

14. Rights and easements reserved by Union Water-Power Company, and terms, conditions, restrictions, and covenants relating to use, construction and maintenance of any roadway and/or utility services, as set forth in deed dated April 14, 1999, recorded at said Registry in Book 14687, Page 118.

15. Rights and easements reserved by Central Maine Power Company, and terms, conditions, restrictions, and covenants relating to use, construction and maintenance of any roadway and/or utility services, as set forth in Easement dated April 14, 1999, recorded at said Registry in Book 14687, Page 122.

16. Rights and easements reserved by Simon A. Snyder et al. in their deed to the City of Portland, dated December 7, 1999 and recorded in the Cumberland County Registry of Deeds, Book 15211, Page 31.

17. Rights and easements granted by Declarant to Portland Trails by easement recorded in said Registry of Deeds in Book 17232, Page 298 and by Easement Deed, dated \_\_\_\_\_ and recorded in the Cumberland County Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_. (The previous easement deed dated July 16, 2012 and recorded in Book 30001, Page 66 was released in a deed dated \_\_\_\_\_ and recorded in the Cumberland County Registry of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.

18. Such statement of facts and conditions as shown on a First Amended Subdivision Plat of Portland Technology Park Condominium prepared by SGC Engineering, LLC dated September 29, 2011 and revised through September 28, 2015 recorded in the Cumberland County Registry of Deeds, Plan Book \_\_\_\_, Page \_\_\_\_.

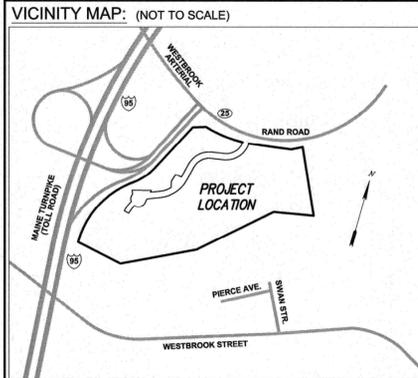
19. Easement Deed from the City of Portland to Portland Water District, dated \_\_\_\_\_ and recorded in the Cumberland County Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_. (The previous easement deed dated November 19, 2012 and recorded in Book 30292, Page 125 was released in a deed dated \_\_\_\_\_ and recorded in the Cumberland County Registry of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.)

20. Terms and conditions set forth in the State of Maine Department of Environmental Protection Site Location of Development Act Orders dated April 6, 2012 and recorded in the Cumberland County Registry of Deeds in Book 29531, Page 116 and dated April 7, 2015 and recorded in Book 32197, Page 14.

21. Rights and easements set forth in two Gas Line Easements granted to Northern Utilities, Inc. d/b/a/ Unitil, dated April 1, 2015 and recorded in the Cumberland County Registry of Deeds in Book 32209, Page 58 and by easement deed dated \_\_\_\_\_ and recorded in the Cumberland County Registry of Deed in Book \_\_\_\_\_, Page \_\_\_\_\_. (The previous easement deed dated April 1, 2015 and recorded in Book 32209, Page 50 was released in a deed dated \_\_\_\_\_ and recorded in the Cumberland County Registry of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.)

**SCHEDULE B**  
**PORTLAND TECHNOLOGY PARK CONDOMINIUM**  
**DECLARATION OF CONDOMINIUM**

**[Copy of Plat]**



EASEMENT AREA 1 CURVE TABLE

CURVE	RADIUS	LENGTH	BEARING	CHORD DIST.
C1	250.00	30.49	S65°18'18"W	30.47
C2	74.58	64.22	N39°39'38"W	62.25
C3	170.00	56.12	N141°13'36"E	55.87
C4	1180.00	60.59	N85°30'52"W	60.58

EASEMENT AREA 2 CURVE TABLE

CURVE	RADIUS	LENGTH	BEARING	CHORD DIST.
C5	76.54	37.59	S43°48'45"E	37.21
C6	74.00	77.50	S59°44'31"E	74.00
C7	114.00	119.39	N59°44'31"W	114.01
C8	20.00	8.26	N41°34'58"W	8.21

LINE TABLE

LINE	LENGTH	BEARING
L1	20.97	S35°24'43"E
L2	35.12	N24°30'45"W
L3	19.39	S141°13'36"W
L4	2.94	N15°00'00"W
L5	23.23	N32°26'19"E

- GENERAL NOTES:
- THIS PLAN AND ALL WORK ASSOCIATED WITH IT WAS PERFORMED BY SGC ENGINEERING, LLC PURSUANT TO A PROFESSIONAL SERVICES CONTRACT BETWEEN WOODARD & CURRAN, INC. AND SGC ENGINEERING, LLC, DATED SEPTEMBER 8, 2010 AND SIGNED MARCH 14, 2011.
  - REFERENCE DEED FOR THE LOCUS PARCEL IS SIMON A. SNYDER, JASON A. SNYDER, RONALD A. BARRIS, TRUSTEE OF THE THERESE BARRIS MARITAL TRUST, CYNTHIA B. BAKER, TRUSTEE OF THE THEODORE BARRIS TRUST, RONALD A. BARRIS AND CYNTHIA B. BAKER, CO-TRUSTEES OF THE BARRIS FAMILY TRUST TO THE CITY OF PORTLAND, DATED DECEMBER 7, 1999 AND RECORDED IN DEED BOOK 15211, PAGE 031 AT THE CUMBERLAND COUNTY REGISTRY OF DEEDS.
  - THE BEARINGS SHOWN HEREON ARE REFER TO GRID NORTH AND ARE BASED ON PLAN REFERRED TO UNDER MAP REFERENCES, NOTE 1.
  - THE LOCUS PARCEL IS DEPICTED AS LOTS 1 & 2 IN BLOCK A ASSESSORS MAP #49. ASUTTING PROPERTY OWNER INFORMATION REFERENCED HEREON WAS TAKEN FROM THE CITY OF PORTLAND ASSESSORS DATA AS OF THE DATE OF THIS PLAN.
  - RAND ROAD IS A PUBLIC HIGHWAY, THE SIDELINE LOCATIONS ARE BASED ON THE PLAN REFERENCED UNDER NOTE 1 OF MAP REFERENCES BELOW AND MAINE TURNPIKE AUTHORITY PLANS ON FILE AT THE OFFICES FOR THE MAINE TURNPIKE AUTHORITY.
  - NO SUBSURFACE INVESTIGATION HAS BEEN PERFORMED BY SGC ENGINEERING, LLC. DUG-SAFE SHOULD BE CONTACTED PRIOR TO COMMENCING ANY EXCAVATION. (888-344-7233).
  - THE BOUNDARY INFORMATION ON THIS PLAN IS BASED ON THE PLAN REFERENCED UNDER NOTE 1 OF MAP REFERENCES. SGC ENGINEERING FIELD CREWS COMPLETED A SURVEY OF THE PIPELINE LOCATIONS WITHIN THE PORTLAND PIPELINE COMPANY EASEMENT AND EXISTING MONUMENTATION FOUND AND SET BY PREVIOUS SURVEY COMPLETED BY LAND SERVICES, INC., FOR THE PURPOSE OF VERIFYING THEIR EXISTENCE AND TO OVERLAY DESIGN INFORMATION WITHIN BOUNDARIES DETERMINED BY LAND SERVICES, INC. SGC ENGINEERING DID NOT CONFIRM PERIMETER BOUNDARIES BEYOND LOCATION OF MONUMENTATION.
  - REFERENCE IS HEREBY MADE TO THE PORTLAND TECHNOLOGY PARK CONDOMINIUM DECLARATION OF CONDOMINIUM, INCLUSIVE OF BYLAWS, TO BE RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS AT BOOK \_\_\_\_\_ PAGE \_\_\_\_\_.
  - ALL UNDEVELOPED AREAS ARE CONSIDERED COMMON AREAS.

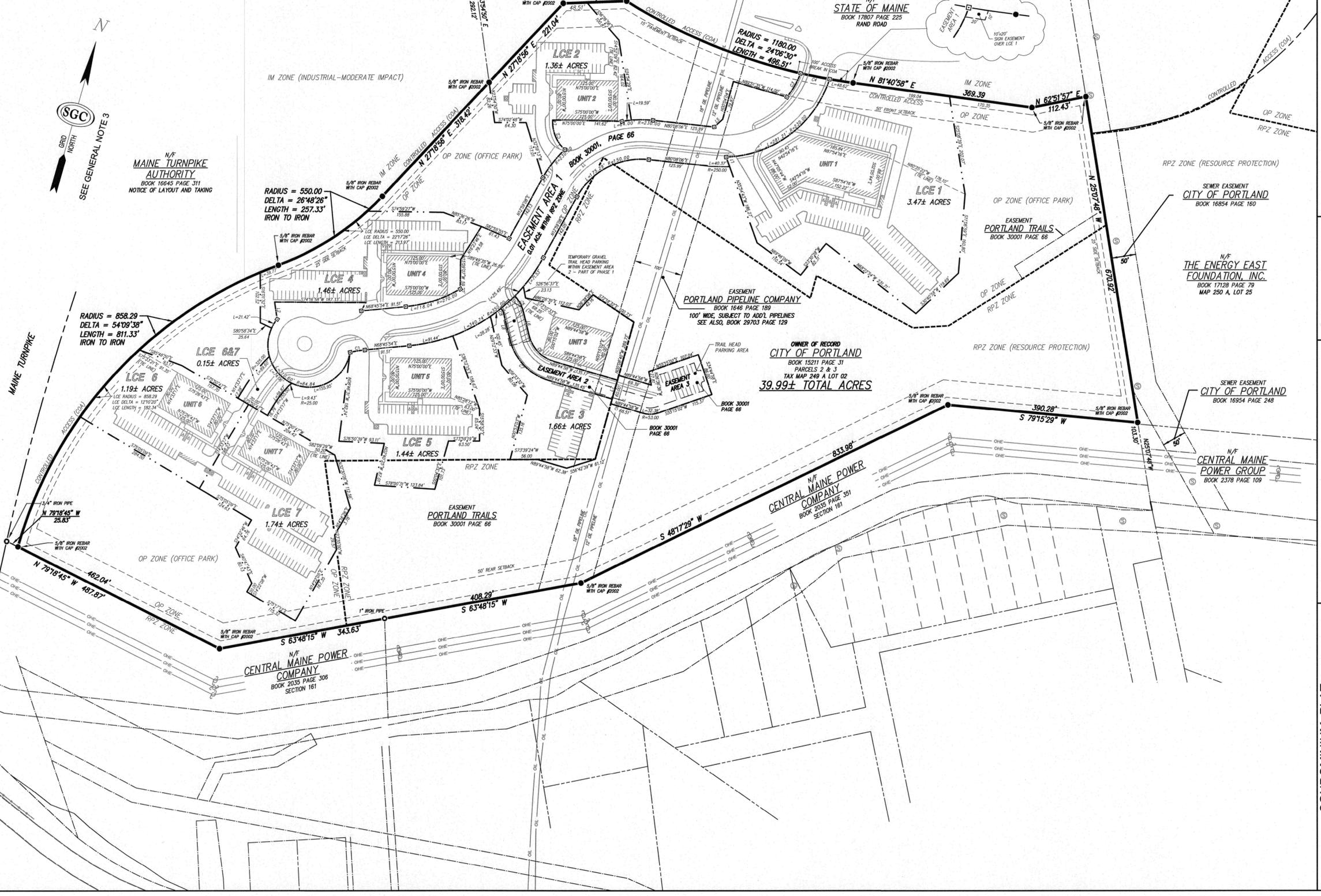
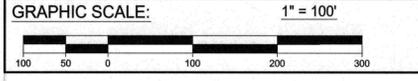
- MAP REFERENCES:
- A PLAN ENTITLED "PLAN OF STANDARD BOUNDARY SURVEY, PROPERTY OF THE CITY OF PORTLAND, WESTBROOK STREET, PORTLAND, MAINE" DATED OCT. 1997 AND LAST REVISED OCT. 23, 2002, PREPARED BY LAND SERVICES INC.
  - A PLAN ENTITLED "SUBDIVISION PLAT OF PORTLAND TECHNOLOGY PARK CONDOMINIUM, RAND ROAD, PORTLAND MAINE, MADE FOR THE CITY OF PORTLAND DATED SEPTEMBER 29, 2011 AND REVISED SEPTEMBER 25, 2012 PREPARED BY SGC ENGINEERING, LLC AND RECORDED IN PLAN BOOK 212, PAGE 324.

LEGEND: LINETYPES & HATCH PATTERN

ADJACENT LOT LINE	ADJACENT R.O.W. LINE	LOCUS BOUNDARY LINE	OLD TRACT LINE	EASEMENT LINE	OVERHEAD ELECTRIC LINE	SANITARY SEWER LINE	LIMITED COMMON ELEMENT YARD LIMIT	ZONE LINE			
CONCRETE BOUND	GRANITE BOUND TO BE SET	PIPE	REBAR	SOLID SMOOTH ROD	RAILROAD SPIKE	HANDICAPPED SYMBOL	UTILITY POLE	SQUARE CATCH BASIN	ROUND CATCH BASIN	DRAIN MANHOLE	LIMITED COMMON ELEMENT

LEGEND: POINT TYPES & SYMBOLS

SINGLE POST SIGN	ELECTRIC MANHOLE	LIGHT POST	GAS VALVE	GAS VENT PIPE	SEWER MANHOLE	HYDRANT	WATER MANHOLE	WATER SHUT-OFF	WATER VALVE	DECIDUOUS TREE
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CUMBERLAND COUNTY, ss. REGISTRY OF DEEDS

Received: \_\_\_\_\_ M. and \_\_\_\_\_ Page \_\_\_\_\_

Filed in Plans Book \_\_\_\_\_

ATTEST: \_\_\_\_\_ Register

REVISIONS:

NO.	DATE	DESCRIPTION
1	08-29-11	SUBMITTAL FOR REVIEW
2	11-08-13	ADD UNIT BOUNDARIES AND SIGN EASEMENT
3	09-17-14	APPROVED FOR SUBMITTAL

ONLY VALID WITH ORIGINAL STAMP

DATE: 08-29-11

PROJECT: 696001

FILE: 696001

SHEET 1 OF 1

SGC ENGINEERING, LLC

- Civil Design & Survey Engineering
- Environmental & Regulatory Permitting
- Electrical Power Systems Engineering

1901 East 27th Street  
Portland, ME 04106  
Tel: 207-542-5100  
Fax: 207-542-5101

69 South Broadway, 17th Floor  
Farmington, NH 03041  
Tel: 603-856-6874  
Fax: 603-856-6875

CONDOMINIUM PLAT OF PORTLAND TECHNOLOGY PARK CONDOMINIUM RAND ROAD, PORTLAND, MAINE

RECORD OWNER: CITY OF PORTLAND - DECLARANT

389 CONGRESS STREET, PORTLAND, MAINE

**SCHEDULE C**  
**PORTLAND TECHNOLOGY PARK CONDOMINIUM**  
**DECLARATION OF CONDOMINIUM**

The Unit numbers, fraction of ownership of Common Elements, fraction assessment of Common Element expense, and number of votes in the Portland Technology Park Condominium Association are as follows:

<u>Unit Number</u>	<u>Votes</u>	<u>Fraction of ownership of Common Elements and fraction assessment of Common Expense Liability</u>
1	1	1/7 <sup>th</sup>
2	1	1/7 <sup>th</sup>
3	1	1/7 <sup>th</sup>
4	1	1/7 <sup>th</sup>
5	1	1/7 <sup>th</sup>
6	1	1/7 <sup>th</sup>
7	1	1/7 <sup>th</sup>

The formula or method used to establish those allocations of votes consisted of an equal allocation to each Unit, with one vote being allocated to each Unit. The formula or method used to establish the allocations of Common Expense Liability and ownership of the Common Elements interest consisted of an equal allocation to each Unit.

Notwithstanding the foregoing, (a) as long as Declarant owns at least three or more Units on which no buildings are located, the number of votes, fraction of ownership of Common Elements, and the allocation of Common Expense Liability collectively to the Units owned by Declarant on which no buildings are located, shall each be a fraction, the numerator of which shall be three and the denominator of which shall be three plus the number of Units owned by any person or entity other than the Declarant, plus the number of Units, if any, owned by the Declarant on which buildings are located, and the number of votes, fraction of ownership of Common Elements and allocation of Common Expense Liability to each Unit that has been conveyed by Declarant to another person or entity and to each Unit owned by the Declarant on which buildings are located shall be a fraction, the numerator of which shall be one and the denominator of which shall be the number of Units owned by any person or entity other than the Declarant plus three plus the number of Units then owned by the Declarant on which buildings are located; and (b) as long as Declarant owns two Units on which no buildings are located, the number of votes, fraction of ownership of Common Elements, and the allocation of Common Expense Liability collectively to the Units owned by Declarant on which no buildings are located, shall each be a fraction, the numerator of which shall be two and the denominator of which shall be two plus the number of Units owned by any person or entity other than the Declarant plus the number of Units owned by Declarant on which buildings are located, and the number of votes, fraction of ownership of Common Elements and allocation of Common Expense Liability to each Unit that has been conveyed by Declarant to another person or entity and to each Unit owned by the Declarant on which a building is located shall be a fraction, the numerator of which shall be one and the denominator of which shall be two plus the number of Units owned by any person or entity other than the Declarant plus the number of Units then owned by Declarant on which buildings are located.

## SCHEDULE D

### *Inspection and Maintenance Requirements*

General inspection and maintenance during and after construction must take place in accordance with the requirements outlined in Chapter 500, Stormwater Management, Appendix B, Inspection and Maintenance, and Stormwater Management, Maine Department of Environmental Protection publication No. DEPLW0738. The condominium association will be responsible for implementing maintenance and inspection requirements for the stormwater management systems associated with the development. During the period that the City of Portland is the only member or one among other members of the condominium association, the contact person under responsible charge for this, until such time as this responsibility is transferred (as noted below), is:

John Emerson  
Wastewater Facilities Coordinator  
55 Portland Street  
Portland, Maine 04101  
Phone: (207) 874-8468

Upon development of the building sites, additional members will join the condominium association. These documents outline the maintenance and inspection responsibilities of the individual building tenants and the condominium association.

The responsible party will ensure that stormwater management facilities are properly maintained and inspected. Specifically, the underdrained soil filters, stormwater gravel wetlands, outlet structures, outlet pipes, culverts, roadways and parking lots will be inspected and maintained per the guidance outlined herein.

### Inspection and Maintenance of Stormwater Systems

Upon completion of the project, the condominium association (association) will assume responsibility for overseeing the property, including the inspection and maintenance of the site's stormwater drainage system and treatment measures. The inspection and maintenance outlined in Chapter 500 Stormwater Regulations, and in the Maine Department of Environmental Protection's Stormwater BMP Manual, will be followed. Inspection and maintenance activities subject to the Post-Construction Stormwater Management Plan will be carried out in conformance with Chapter 32 of the City of Portland Code of Ordinances as follows.

A person with knowledge of stormwater management and erosion and sediment control, including municipal and state regulations and the standards and conditions in the permit, shall conduct the inspections and perform maintenance of the facilities at least annually. The association is responsible for maintaining records of all inspection and maintenance activities, to be submitted in the annual report to the City Department of Public Services (DPS) on or by June 30<sup>th</sup> of each year, certifying the successful inspection of all BMPs and that noted deficiencies in the stormwater management facilities have been repaired. The association shall include the DPS filing fee with the annual report.

Specifically, the condominium association will assume inspection and maintenance responsibility for the underdrained soil filters and gravel wetlands.

The condominium association will also be required to submit a certification of the following to the Maine Department of Environmental Protection within three months of the expiration of each five-year interval from the date of issuance of the permit.

- a) Identification and repair of erosion problems. All areas of the project site have been inspected for areas of erosion, and appropriate steps have been taken to permanently stabilize these areas.
- b) Inspection and repair of stormwater control system. All aspects of the stormwater control system have been inspected for damage, wear, and malfunction, and appropriate steps have been taken to repair or replace the system, or portions of the system.
- c) Maintenance. The erosion and stormwater maintenance plan for the site is being implemented as written, or modifications to the plan have been submitted to and approved by the department, and the maintenance log is being maintained.

### **Pavement and Drainage Structures**

All proposed drainage structures located on site, such as culverts, basins and piping, shall be inspected annually to ensure they are being well maintained and are adequate in carrying stormwater flows throughout the site. Parking and paved areas, such as the access road, will be inspected annually each spring. Visual inspections will enable site roads and parking areas to be kept clean and clear through periodic sweeping (at minimum annually) and winter plowing as required. The inspections will also ensure pavement markings are repainted as needed to maintain proper traffic circulation and parking space delineation. Paved areas will be plowed and sanded as often as necessary to maintain safety. Periodic sweeping of pavement (at minimum annually) will keep the parking areas clean and will reduce the amount of sediment available to enter the stormwater management systems, in turn reducing the need to clean these systems.

### **Gravel Wetland Systems**

Gravel Wetlands maintain a saturated gravel bed and provide treatment of stormwater through physical chemical and biological processes within the plants and gravels/soils of the system. Gravel Wetlands are well suited for poorly draining sub-soils due to the limited hydraulic head requirement (difference in elevation between what flows in and what flows out) and lack of required separation from the groundwater table. Because infiltration is not designed to occur, separation from groundwater is not required and the systems are sited much like stormwater ponds.

Monitoring and maintenance is critical for the proper operation of gravel wetland systems. First year post-construction monitoring differs primarily by its increased frequency to assure proper vegetative establishment and system functioning. Post-construction routine monitoring is based on USEPA requirements for good housekeeping practices.

Unlike other filtration systems, a subsurface gravel wetland is a subsurface, horizontal filtration system and does not rely upon the surface soils for treatment. As such, surface infiltration rates are expected to be low and are not used for the criteria for cleaning/maintenance. Rather, stormwater conveyance into the subsurface gravel layer is the critical hydraulic performance measure.

**1<sup>st</sup> Year Post-Construction:** Inspection frequency should be after every major storm in the first year following construction.

- Ensure system drains within 24-72 hrs (within the design period, but also not so quickly as to

minimize stormwater treatment).

- Water plants as necessary during the first growing season
- Re-vegetate poorly established areas as necessary
- Treat diseased vegetation as necessary
- Quarterly inspection of side slopes, earthen embankments, forebays and inlets; repair eroded areas, especially on slopes
- Check inlets, outlets, and overflow spillway for blockage, structural integrity, and evidence of erosion.

**Post-Construction:** Inspection frequency should be at least every 6 months thereafter. Inspection frequency can be reduced to annually following 2 years of monitoring that indicates the rate of sediment accumulation is less than the cleaning criteria listed herein. Inspections should focus on:

- Check the filter surface for dense, complete, root mat establishment across the wetland surface. Thorough vegetation with grasses, forbs, and shrubs is necessary.
- Check the gravel wetland surface for standing water or other evidence of riser clogging, such as discolored or accumulated sediments. More detail in section below.
- Check the sedimentation forebay for sediment accumulation, trash, and debris.
- Ensure system drains within 24 to 72 hrs.
- Check inlets, outlets, valves, weir walls, orifice structures, and overflow spillway for blockage, structural integrity, and evidence of erosion.
- Check side slopes and earthen embankments; repair eroded areas, especially on slopes.
- Remove decaying vegetation, litter, and debris.

### **Gravel Wetland Maintenance**

**Cleaning Criteria for Sedimentation Forebay:** Sediment should be removed from the sedimentation chamber (forebay) on an annual basis. Sediment can be removed with hand tools or hand operated power equipment (power brooms, vac equipment, etc.). If larger equipment is necessary, this equipment should not track on the wetland surface. Disturbed areas should be revegetated as necessary. Removed sediments should be dewatered (if necessary) and disposed of in accordance with state solid waste guidance.

**Cleaning Criteria for Gravel Wetland Treatment Area:** Sediment should be removed from the gravel wetland surface when it accumulates to a depth of several inches across the wetland surface. Sediment should be removed with hand tools or hand operated power equipment (power brooms, vac equipment, etc) rather than heavy construction equipment to avoid compaction of the gravel wetland surface. If larger equipment is necessary, this equipment should work adjacent to the gravel wetland and should not track on the wetland surface. Removed sediments should be dewatered (if necessary) and disposed of in accordance with state solid waste guidance.

**Draining and Flushing Gravel Wetland Treatment Area:** For maintenance it may be necessary to drain or flush the treatment cells. Flushing of the risers and horizontal subdrains is most effective with the entire system drained. Flushed water and sediment should be collected and properly disposed.

**Inlets:** Inlets to each stormwater treatment area should be kept open and in good working condition. This is particularly important around curb breaks and/or sidewalk culverts. These locations should be marked on the roadway at the completion of construction to allow for winter snow removal. All eroded areas should be repaired.

**Initial Turf Maintenance (when applicable):** Sod or seeded areas at inlets or along gravel wetland embankments should ideally be mowed no lower than 3" for optimum grass health and to minimize erosion.

**Large Debris:** Large debris within the ponding area should be removed.

**Weeds in the Gravel Wetland Area:** Periodic weeding of the gravel wetland areas and forebays may be necessary, particularly in the landscaped portions of the stormwater management system. Hand weeding is required as the use of herbicides is not recommended.

**Surface Mulch Layer (when applicable):** Areas devoid of mulch should be remulched by hand. Every year, in the spring, a fresh layer of mulch should be added to the soil filter area as needed.

**Sedimentation (or Apparent Clogging) of Wetland Surface Area:** To correct a standing water problem, the following remedial actions are recommended:

1. Check adjacent groundwater levels. High seasonal groundwater may influence system drain-down. Inspect system outlet for inundation or debris blockages.
2. Evaluate the drainage area to the treatment area to identify any potential sources of sediment, such as an erosive condition, that may be contributing to the clogging of the device. If a source is identified, it is recommended that that source be eliminated to the fullest extent practicable before proceeding with the remaining recommendations provided below.
3. Flush the subdrains. Use cleanouts to flush the subdrains. Sediment in the drains may be preventing the system from draining. Make sure to provide a way to capture any flushed sediment before it enters the stream environment or storm drain system downstream of the device. If, after flushing the subdrains, the device continues to hold water, the wetland soil may be contaminated. As such, following the guidelines provided below is recommended.
4. Gage the extent of soil contamination. To do this, it is recommended that one or more test pits be dug with a shovel and that the soil layer be evaluated for contamination. Once the levels of contamination have been determined (for example, the top 4" of soil appears to be contaminated), it is recommended that you proceed with the remaining remedial actions.
5. Harvest the plants (when applicable). Care should be taken in the removal and temporary storage of the plants so that as many as possible can be harvested for replanting in the wetland area once the functioning of the device has been restored sufficiently.
6. Remove the top few inches of contaminated soil plus an additional 2-inch of soil, and replace the removed soil with a clean soil mix in accordance with the soil mix specification.
7. Monitor the function of the system during the next two to three rain events. If the device appears to be draining as intended (e.g., there is no standing water 72 hours following a rain event), proceed with the remaining remedial actions. If the area continues to hold standing water, then the entire soil mix and the subdrains may need to be removed and replaced. Reuse of any undamaged subdrains may be possible once they have been cleaned thoroughly.
8. Replant the harvested plants, and replace any plants that were rendered unusable during or following their removal from the soil filter area.
9. Water the plants in the soil filter for the next two or more weeks unless there is sufficient rainfall. This will help the plants to reestablish.

In addition to the inspection and maintenance of stormwater systems, parking and paved areas, such as the access road, will be inspected annually each spring. Visual inspections will enable site roads and parking areas to be kept clean and clear through contracting periodic sweeping and winter plowing as required. The inspections will also ensure pavement markings are repainted as needed to maintain proper traffic circulation and parking space delineation. Paved areas will be plowed and sanded as often as necessary to maintain public safety. Periodic sweeping of pavement will keep the parking areas clean and will reduce the amount of sediment available to enter the gravel wetlands, in turn reducing the need to clean these devices.

Stormwater inspection and maintenance requirements are summarized in more detail in the following Stormwater Inspection Checklist and Stormwater Management Maintenance Tasks and Recommended Schedule.

### **Underdrained Soil Filter Systems**

The underdrained soil filters will be inspected semi-annually in spring and fall. Additionally, for the first six months, each filter will be inspected following major storm events. These inspections will ensure that there is no erosion in the soil filter, the filter remains capable of filtering runoff within two days, and sediment does not build up. Should the soil filter to drain within 72 hours, the top several inches of the filter media will be removed and replaced with fresh material. Attachment 12.8 includes an inspection form to be used during all soil filter inspections.

Maine DEP recommends mowing at least twice each year to allow visual inspection and to prevent the growth of woody plants. Sediment will be removed annually. Any eroding areas will be repaired immediately. Should a basin or swale fail to filter the runoff from a storm within two days, the soil filter layer may need to be retiled. No basin or swale will be used for snow storage or for any activities that involve heavy foot traffic. Vehicle traffic within the filter basin will not be allowed.

**GRAVEL WETLAND/UNDERDRAIN SOIL FILTER  
VISUAL INSPECTION RECORD**

       **INITIAL STORM INSPECTION:** For the first six months perform inspections after each major storm.

       **SEMIANNUAL INSPECTION:** Following the first six months, inspect twice annually, in the spring and the fall.

Date: \_\_\_\_\_ Time: \_\_\_\_\_

Location: \_\_\_\_\_

Last Date and Approximate rainfall amount (in): \_\_\_\_\_

Estimated depth of undrained water in soil filter (in): \_\_\_\_\_

**Characteristics of Soil Filter:**

Vegetation Condition: \_\_\_\_\_

Sedimentation Present (Y/N): \_\_\_\_\_ Amount (depth over filter): \_\_\_\_\_

Filter Media / Wetland Soil Condition (i.e. erosion, rilling, etc.): \_\_\_\_\_

Outlet Control Structure Condition: \_\_\_\_\_

Oil Sheen (Y/N): \_\_\_\_\_ Trash (Y/N): \_\_\_\_\_ Amount: \_\_\_\_\_

Other observances: \_\_\_\_\_

**Maintenance:**

Task	Completed Since Last Inspection (Y/N)*	Needs to be Completed (Y/N)
Annual sediment removal		
Semiannual mowing		
Debris clean-out at beehive grate		
Woody vegetation control mowing/cutting		

*\* If yes, list date (month, year) when maintenance activity was performed.*

Observations of drainage area during visual monitoring: \_\_\_\_\_

Follow-up actions required following inspection (i.e. removal and replacement of top layer of material):

Signature of person conducting visual monitoring: \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_

**PARKING LOT/DRIVEWAY  
ANNUAL VISUAL INSPECTION RECORD**

**Conduct inspection in the spring, but perform periodic sweeping as necessary throughout the year and plow and sand parking areas during the winter.**

Parking Lot #/Location \_\_\_\_\_  
Date/Time \_\_\_\_\_  
Weather Conditions \_\_\_\_\_  
Inspector (s) \_\_\_\_\_

1. Problems observed:

Cracking or broken Pavement: \_\_\_\_\_  
Ponding or signs of ponding: \_\_\_\_\_  
Sediment: \_\_\_\_\_  
Trash: \_\_\_\_\_  
Oil: \_\_\_\_\_  
Faded striping: \_\_\_\_\_  
Other: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Follow-up actions required following inspection (i.e. sweeping, repainting lines, repair pavement or islands):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Name and title of person(s) notified of inspection results:

\_\_\_\_\_  
Name Title date

\_\_\_\_\_  
Name Title date

4. Signature of inspector: \_\_\_\_\_

Name Title

\_\_\_\_\_  
date

## STORMWATER INSPECTION CHECKLIST

Inspection by: \_\_\_\_\_

Date: \_\_\_\_\_

Stormwater Management Feature	Condition					
Vegetative cover on slopes	no bare spots, no evidence of rill erosion		some bare spots, some rill erosion		large bare areas, extensive erosion	
Drainage channels/Ditches	no erosion, channels clear		some erosion and siltation		major erosion, channels clogged	
Gravel Wetlands/ Underdrained Soil Filters	no siltation		some siltation		heavily silted in	
Gravel Wetlands/ Underdrained Soil Filters	sideslopes free of erosion		some erosion on sideslopes		sideslopes heavily eroded	
Gravel Wetlands/ Underdrained Soil Filters	inlet free of erosion		some erosion at inlet		inlet heavily eroded	
Gravel Wetlands/ Underdrained Soil Filters	inlet / outlet clear		some debris		completely blocked	
Gravel Wetlands/ Underdrained Soil Filters	no erosion on outlet weir		some rutting or erosion		deeply rutted and washed out	

Recommended Actions: \_\_\_\_\_

Actions Completed: \_\_\_\_\_ Date: \_\_\_\_\_ Mgr. Approval: \_\_\_\_\_

**STORMWATER MANAGEMENT MAINTENANCE TASKS AND RECOMMENDED SCHEDULE**

<b>TASKS</b>	<b>SEDIMENT FOREBAY</b>	<b>ROCK SANDWICHES</b>	<b>OUTLET CONTROL STRUCTURES</b>	<b>GRAVEL WETLANDS</b>	<b>UNDERDRAINED SOIL FILTERS</b>	<b>CULVERTS</b>	<b>SCHEDULE</b>
Inspect for sediment accumulation	X	X	X	X	X	X	Annually
Remove sediment accumulation	X	X	X	X	X	X	As needed
Clean debris	X	X	X	X	X	X	Early spring, fall and after major storm
Inspect for Erosion	X	X	X	X	X		As needed
Reestablish vegetation in erosion areas	X	X	X	X	X		Early spring
Rake out dead vegetation	X	X		X	X		Early spring, fall
Replace stone rip-rap			X	X	X	X	Every 3 – 5 years as needed
Inspect structural elements during wet weather and compare to as-built plans			X	X	X		Annually
Make adjustments or replacements as determined by wet weather observations	X			X	X		As needed
Keep records of all inspections and maintenance activities	X	X	X	X	X	X	Annually
Have a professional engineer perform emergency inspections upon identification of severe problems	X	X	X	X	X	X	As needed

**SCHEDULE E**

**PORTLAND TECHNOLOGY PARK CONDOMINIUM  
BYLAWS OF PORTLAND TECHNOLOGY PARK CONDOMINIUM ASSOCIATION**

**ARTICLE I: Name, Location, and Fiscal Year.**

Section 1. Name. The name of the corporation is Portland Technology Park Condominium Association (the "Corporation").

Section 2. Location. The principal office of the Corporation shall be located at 300 Rand Road, Portland, Maine.

Section 3. Fiscal Year. The fiscal year of the Corporation shall, unless otherwise decided by the Board of Directors, ends December 31.

**ARTICLE II: Purposes.**

Section 1. Purposes. The purposes of said Corporation are to act on behalf of its members collectively as their governing body with respect to the administration, maintenance, repair and replacement of certain property which will be submitted to the provisions of Maine Condominium Act, Title 33, Chapter 31, Section 1601-101 *et seq.* and to be known as Portland Technology Park Condominium Association and as such to own and acquire any real estate or interest or rights therein or appurtenances thereto and any and all personal property in connection therewith as may be incidental or necessary to such purpose.

**ARTICLE III: Members.**

Section 1. Membership. The owner or owners of record from time to time of each Unit of the Condominium, shall constitute one member of the Corporation, and each such member shall have the fraction of common interest, common expenses liabilities and voting rights in the Corporation that are set forth in the Declaration of Condominium of the Portland Technology Park Condominium recorded in the Cumberland County Registry of Deeds, as it may be amended from time to time.

Section 2. Termination of Membership. The membership of each Unit owner shall terminate when he ceases to be a Unit owner, and upon the sale, transfer or other disposition of his ownership interest in the property his membership in the Corporation shall automatically be transferred to the new Unit owner succeeding to such ownership interest.

Section 3. Meetings and Notice. Meetings of members shall be held at the Condominium in Portland, Maine. An annual meeting of the members shall be held on the first Tuesday in October in each year, commencing with October 1, 2016 at 4 p.m. Special meetings of the members may be called by the President, the Board of Directors or upon a petition signed by fifty (50) percent of the members. Written notice of any meeting shall be given to each member by the Secretary not less than ten (10) days nor more than thirty (30) days before the meeting by mailing it postage prepaid to the member's mailing address or to any other mailing address designated in writing by the member. The notice shall specify the time and place of the meeting and the items on the agenda.

Section 4. Quorum and Voting. A quorum for any meeting shall be constituted by persons entitled to cast 50 percent of the votes for election of the executive board, attending in person or represented by proxy.

Except as otherwise provided, any specified percentage of Unit Owners means a vote by the Owners of those Units to which are allocated the same specified percentage of the Votes in the Association that are cast in person or by proxy at any meeting of the Association at which a quorum is present in person or by proxy, and for all voting purposes, each Unit Owner shall have a vote equal to the Votes in the Association allocated to its Unit. The approval by a specified percentage of Eligible Mortgage Holders is based upon one (1) vote for each Mortgage held. The terms "majority vote" or "majority of Unit Owners" shall mean a vote by the Owners of those Units to which are allocated more than fifty percent (50%) of the Votes in the Association that are cast in person or by proxy at any meeting of the Association at which a quorum is present in person or by proxy.

The Votes in the Association allocated to a Unit can only be cast as a unit and cannot be split. If a Unit is owned of record by one person, that Unit Owner's right to vote shall be established by the record title to the Unit. If ownership of a Unit is in more than one person, the person who shall be entitled to cast the Votes allocated to that Unit shall be the person named in a certificate executed by all of the Owners of such Unit and filed with the Secretary of the Association. If ownership of a Unit is in a corporation, partnership, limited liability company, trust or estate, the officer or employee of that corporation, partner of that partnership, manager or member of that limited liability company, trustee of that trust, or agent of that estate, entitled to cast for the corporation, partnership, limited liability company, trust or estate the Votes allocated to such Unit shall be designated in a certificate for that purpose executed by the president or a vice president of that corporation, and attested to by the secretary or clerk of that corporation, executed by all the partners of that partnership, by all of the members of that limited liability company, or executed by all the beneficiaries of that trust, or executed by either all the devisees of that estate or by order of the probate court and filed with the Secretary of the Association. Such certificates of multiple owners, corporations, partnerships, limited liability companies, trusts or estates shall be valid until revoked by a subsequent certificate similarly executed and filed with the Secretary of the Association. Wherever the vote, approval or disapproval of a Unit Owner is required by this Declaration or the Act, such vote, approval or disapproval shall be made only by the person who would be entitled pursuant to such certificate to cast at any meeting of the Association the Vote allocated to such Unit. If the person named or designated in said certificate for a particular Unit shall be absent from a meeting of the Association, no person may cast the Vote allocated to that Unit at the meeting, although the presence at the meeting of a non-named or non-designated co-Owner or member, officer or employee of such Owner shall be counted in determining whether a quorum is present. If a multiple Owner of a Unit (that is not a partnership, limited liability company, trust, estate or corporation) has failed to file said certificate with the Secretary of the Association and only one of the multiple Owners is present at a meeting of the Association, he or she shall be entitled to cast at the meeting all the Votes allocated to that Unit without establishing the concurrence of the absent Owner just as though that person were the sole Owner of the Unit. If a multiple Owner of a Unit (that is not a partnership, trust, limited liability company, estate or corporation) has failed to file said certificate with the Secretary and if more than one Owner of that Unit is present at the meeting, the Votes allocated to that Unit may be cast only in accordance with the agreement of a majority of the multiple Owners present at the meeting. Such majority agreement shall be conclusively presumed if any one of those multiple Owners shall cast the Vote allocated to the Unit without protest being promptly made to the person presiding over the meeting by any other Owners of that Unit.

#### ARTICLE IV: The Board of Directors.

Section 1. Composition. The Board of Directors shall consist of three members initially, and will be increased as Units are sold by the Declarant to reflect the provision in the Declaration that each Unit Owner may elect or appoint one member of the Board of Directors.

Section 2. Election and Term. The directors, except as provided in Article III, Section 5 and Sections 7 and 8 of this Article, shall be elected by the Unit owners at the annual meeting. Each Unit

Owner may elect or appoint one member of the Board of Directors. The directors shall hold office until their successors have been elected.

Section 3. Powers. The business of the Corporation shall be managed by the Board of Directors which shall have and may exercise all the powers of the Corporation, except those powers reserved to the members by the Act or by these Bylaws. The Board shall have the power to engage a managing agent for the property and to fix the term, compensation and authority of the manager or managing agent which, initially, shall be the Declarant.

Section 4. Meetings of Directors. Meetings of the Board of Directors may be held at any time and place upon call by the President or by a majority of the Directors, reasonable notice thereof being given to each Director. Notice that a meeting has been called may be given by the President, Secretary or Assistant Secretary, if one is appointed, or by one of the Directors. Notice of any meeting of the Board of Directors may be waived in writing signed by the person or persons entitled to such notice, whether before or after the time of such meeting, and shall be equivalent to the giving of such notice. Attendance of a Director at such meeting shall constitute a waiver of notice thereof, except where a Director attends a meeting for the express purpose of objecting to the transaction of any business because such meeting is not lawfully convened. Neither the business to be transacted at, nor the purpose of, any meeting of the Board of Directors need be specified in the notice, or waiver of notice, of such meeting.

Section 5. Quorum and Voting. A majority of the directors then in office shall constitute a quorum. A majority of less than a quorum may, from time to time postpone to a new time or place any meeting and the adjourned meeting may be held without further notice. If a quorum exists, a majority of the directors present may take any action, except the removal of a director for cause which shall require a majority vote of all directors then in office.

Section 6. Action by Consent. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting if a written consent thereto is signed by all the directors. The Secretary shall file such written consent with the records of the meetings of the Board of Directors. Such consent shall be treated as a vote of the Board of Directors for all purposes.

Section 7. Vacancies. A vacancy in the Board of Directors shall be filled by the owner of the Unit that appointed the Director to hold office for the unexpired term of the director whose place is vacant and until his successor is elected.

Section 8. Removal. A director may be removed from office by a vote of all of the owners of the Unit or Units that elected such Director. A director may be removed for cause by a majority vote of all directors then in office.

Section 9. Compensation. Directors shall not receive compensation for their services except as provided by resolution of a majority of the members of the Corporation. Directors shall be reimbursed for any out-of-pocket expenses incurred which are reasonable and necessary in performing their duties on behalf of the Corporation.

Section 10. Delegation to Managing Agent. The Board of Directors may delegate to a managing agent all of the powers of the Board, except the responsibility of preparing the annual budget and any supplemental budgets and any powers requiring approval of any specified percentage of members.

#### ARTICLE V: Officers.

Section 1. Designation and Qualification. The officers of the Corporation shall consist of a

President, a Treasurer, a Secretary and such other officers as the Board of Directors may elect. The President and Treasurer shall be members, or spouses of members, or in the case of a Unit owner which is a Corporation, partnership, trust or estate, a designated agent thereof. The Secretary need not be a member, but shall be a resident of Maine.

Section 2. Election and Term. All officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the members and shall hold office until the first meeting of the Board of Directors following the next annual meeting of members and until their successors are elected.

Section 3. President. The President shall be a Director and shall be the chief executive officer of the Corporation. The President shall have general supervision and control of the business of the Corporation subject to the direction of the Board of Directors and shall also have such other powers and duties as the Board of Directors may decide. The President shall preside at all meetings of the members and at all meetings of the Board of Directors. If the President is absent from any meeting of the members or Board of Directors, the Treasurer shall preside at such meeting. The President shall prepare, execute, certify and record amendments to the Declaration on behalf of the Corporation.

Section 4. Treasurer. The Treasurer shall have, subject to the direction of the members or Board of Directors, general charge of the financial affairs of the Corporation and shall keep full and accurate records thereof, which shall always be open to the inspection of any member or holder of a first mortgage on a Unit. He shall render to the President and directors, at the regular meetings of the Board of Directors, or whenever they may require it, a statement of the accounts of his transactions as Treasurer and of the financial condition of the Corporation.

Section 5. Secretary. The Secretary shall record the proceedings of all meetings of the members and of the Board of Directors in books kept for that purpose. Record books of members' meetings shall be open at all reasonable times to the inspection of any member or holder of a first mortgage on a Unit. The Secretary shall also keep the membership transfer books of the Corporation. He shall notify the members and the directors of all meetings in accordance with the Bylaws. If the Secretary is absent from any meeting of the members or the Board of Directors, a Temporary Secretary shall be chosen to exercise the duties of the Secretary at such meeting.

Section 6. Vacancies. A vacancy in any office may be filled by the Board of Directors by the election of a successor to hold office for the unexpired term of the officer whose place is vacant and until his successor is chosen and qualified.

Section 7. Removal. All officers may be removed from their respective offices by the Board of Directors.

Section 8. Resignation. Any officer may at any time resign his office by a resignation in writing delivered to the Corporation at its principal office or to the President or Secretary. Such resignation shall be effective upon receipt and acceptance thereof shall not be necessary to make it effective unless it so states.

Section 9. Compensation. The officers shall receive no compensation for their services unless expressly provided for in a resolution adopted by the majority of the members of the Corporation. The officers shall be reimbursed for any out-of-pocket expenses incurred which are reasonable and necessary in performing their duties on behalf of the Corporation.

#### ARTICLE VI: Assessments.

Section 1. Budget. The Board of Directors shall cause to be prepared an estimated annual budget

for each fiscal year of the Corporation. Such budget shall take into account the estimated common expenses and cash requirements for the year, including salaries, wages, payroll taxes, supplies, materials, parts, services, maintenance, repairs, replacements, landscaping, insurance, fuel, snow removal, trash pickup and other common expenses (as distinguished from individual mortgage payments, real estate taxes and individual telephone, electricity and other individual utility expenses billed or charged to the separate members on an individual or separate basis rather than a common basis). The Board shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the common areas and limited common areas. The reserve fund shall be included in the budget and maintained out of regular assessments for common expenses. To the extent that the assessments and other cash income collected during the preceding year shall be more or less than the expenditures for such preceding year, the surplus or deficit, as the case may be, shall also be taken into account in setting the budget and determining assessments for the current year so as to credit to such assessment any surplus from the preceding year or repay to said reserve fund any deficit from the preceding year.

The failure or delay of the Executive Board to prepare or adopt a budget for any fiscal year shall not constitute a waiver or release in any manner of a Unit Owner's obligation to pay its allocable share of the Common Expenses as herein provided whenever the same shall be determined and, in the absence of any annual budget or adjusted budget, each Unit Owner shall continue to pay each monthly installment at the monthly rate established for the previous fiscal year until the new annual or adjusted budget shall have been adopted.

Any provision or limitation on expenditures contained herein or in the Declaration to the contrary notwithstanding, the Executive Board or the manager may, on behalf of the Association and the Owners without prior notice or consent, expend any amount, or incur a contractual obligation in any amount, required to deal with emergency conditions which may involve a danger to life or property or may threaten the safety of the Condominium or the owners or occupants of Units or may threaten the suspension of any necessary service to the Condominium or may involve the immediate damage to or destruction of the Common Elements.

Section 2. Payment. The estimated annual budget for each fiscal year shall be approved by the Board of Directors, and copies thereof shall be furnished to each member and eligible mortgage holder within thirty (30) days of adoption, and in any event not later than 90 days after the beginning of such year. The Board shall set a date for a meeting of the members to consider ratification of the budget not less than fourteen (14) or more than thirty (30) days after mailing of the budget. Notice of said meeting shall accompany the budget. Unless at that meeting all members reject the budget, the budget is deemed ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the members shall be continued until such time as the members ratify a subsequent budget proposed by the Board of Directors. On or before the first day of the next quarter and of each succeeding month or quarter of the year covered by the annual budget, each member shall pay, as his respective monthly or quarterly assessment for the common expenses, one-twelfth (1/12) or one-fourth (1/4), as the case may be, of his proportionate share of the common expenses for such year as shown by the annual budget, all as determined by the Board of Directors. Such proportionate share for each member shall be in accordance with his respective ownership interest in the common areas and facilities. No member shall be relieved of his obligation to pay his assessments for common expenses by abandoning or not using his Unit or the common areas and facilities.

Section 3. Statements. Within ninety (90) days after the end of each year covered by an annual budget, or as soon thereafter as shall be practicable, the Treasurer shall cause to be furnished to each member a statement for such year so ended, showing the receipts and expenditures and such other information as he may deem desirable.

Section 4. Separate Accounts. The Treasurer shall cause to be kept a separate account for each member showing the respective assessments charged to and paid by such member, and the status of his account from time to time.

Section 5. Additional Assessments. In the event that during the course of any year, it shall appear to the Treasurer that the monthly assessments, determined in accordance with the estimated annual budget for such year, are insufficient or inadequate to cover the estimated common expenses for the remainder of such year, then the Board of Directors shall prepare and approve a supplemental budget covering the estimated deficiency for the remainder of such year, and shall cause the same to be presented to the members for ratification in the same manner as the budget. Upon ratification of the supplemental budget, a supplemental assessment shall be made to each member for his proportionate share of such supplemental budget.

Section 6. Common Expenses. It shall be the duty of every member to pay his proportionate share of the common expenses, in the same ratio as his fraction of ownership in the common areas and facilities. If any member shall fail or refuse to make any such payment of the common expenses when due, the amount thereof together with interest at the rate established by the Corporation, costs and reasonable attorney's fees shall constitute a lien on such Unit. The Corporation shall have the authority and responsibility to exercise and enforce any and all rights and remedies as provided for in Maine Revised Statutes, Title 33, Chapter 31, the Declaration and these Bylaws, or otherwise available at law or in equity for the collection of all unpaid assessments.

Section 7. Budget Expenses. The President and/or Treasurer, subject to Board direction, shall have the authority to enter into contracts on behalf of the Corporation for work and expenses provided in the budget and to make payment therefor from the funds of the Corporation.

Section 8. Expenses Assessed Subsequent to Conveyance of Unit. A member may not exempt himself from liability for his shares of common expenses subsequently to be assessed by a conveyance of his Unit to the Corporation, except by approval of all of the other members and their first mortgagees.

Section 9. Availability of Documents. The Corporation is required to make available to Unit owners, lenders and the holders, insurers and guarantors of the first mortgage on any Unit current copies of the Declaration, Bylaws and any other rules and regulations governing the condominium and other books, records and financial statements of the Corporation. In addition thereto, the Corporation shall also make available to prospective purchasers current copies of the Declaration, Bylaws, other rules governing the condominium, and the most recent annual audited financial statement, if such is prepared. The Corporation may impose a reasonable charge for copies.

#### ARTICLE VII: Amendments.

Section 1. Amendment of Bylaws. These Bylaws may be amended or modified from time to time by action or approval of all of the members, except that no amendment may violate the provisions of Maine Revised Statutes, Title 33, Chapter 31.

Section 2. Amendment of Declaration. The Declaration may be amended in accordance with the terms thereof. Except for amendments exercising Development Rights by Declarant, the President and/or Treasurer of the Corporation shall execute a certificate setting forth the text of the amendment, which certificate shall be attested by the Secretary and recorded in the Cumberland County Registry of Deeds.

**SCHEDULE F**  
**PORTLAND TECHNOLOGY PARK CONDOMINIUM**  
**DECLARATION OF CONDOMINIUM**

**DESIGN GUIDELINES**

The Design Guidelines prepared by Scott Simons Architects and Woodard and Curran, Inc., dated August 8, 2012, as amended, as filed with the Portland Planning Board are hereby incorporated herein by reference.



# DESIGN GUIDELINES

for  
PORTLAND TECHNOLOGY PARK  
City of Portland, Maine

08.08.2012

Prepared By:  
Scott Simons Architects and  
Woodard & Curran, Inc.  
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*Landscape design plays a vital role in a well designed office park by providing sun shading and in an eye pleasing humane environment.*

## INTRODUCTION

The development of the Portland Technology Park Development (PTPD) offers an opportunity to create a quality working environment expressing its own unique identity while, at the same time, becoming a model of environmental sustainability and a vital and integral part of the City of Portland. In general the achievement of these two goals requires:

Adherence to a code of design standards specifically identified for the building and open space.

Adherence to energy and environmental codes equal to or better than those required in the City of Portland Green Building Code.

The use of an architectural language that reflects the regional culture and the use of the building.

It is the intention of these guidelines to ensure a cohesive physical environment fitted properly to its site and its community. The guidelines are not meant to restrict the creative interpretation of Architects working at the Portland Technology Park Development in future years, but should be viewed as an opportunity to participate in the creative process of developing a timeless, sustainable and beautiful Technology Park Campus



*A rendering of the proposed development from the North with the Rt 95 on-ramp shown to the right. Buildings shown are only examples which meet the intent of the Design Guidelines, they are not actual proposed designs. Rendering by Scott Simons Architects.*



*Buildings should be situated appropriately in the landscape with the long side facing south for passive solar opportunities. Solar shading devices in this building at USM Gorham prevent overheating in the summer while allowing for the sun to enter in the winter.  
-University of Southern Maine Childcare by TFH Architects, Gorham, ME*

## DEVELOPMENT GOALS

The City's goal for the PTPD property is to create a forward thinking, low impact, environmentally friendly Technology Park development. The City reserves the right to review all development proposals for compliance with the Design and Energy/Environmental Standards listed below and to request changes and/or revisions to bring the design into conformance with the PTPD standards and goals.

### Design Quality

To achieve the City's goal they encourage proposals that are developed by innovative, well respected design professionals. All proposals for the PTPD unit areas shall be designed by an architect licensed to practice in the State of Maine. They shall include a complete set of drawings showing all exterior elements of the building, a colored rendering of the buildings exterior, and a sample board of the proposed exterior materials.

### Durability

Development proposals for the PTPD unit areas shall be designed to last a minimum of 50 years without major repair or replacement. Materials shall be selected that have proven track record of performance in climates similar to that of Maine, that are attractive, durable, and easy to maintain.

### Energy/Environmental Performance

Development proposals for the PTPD unit areas shall be designed to achieve a minimum performance level that is consistent with the City's Green Building Code. Specific recommendations for performance are also outlined under Design Standards, below.



*Rendering of the proposed development from the South with Rt 95 shown to the left. Buildings shown are only examples which meet the intent of the Design Guidelines, they are not actual proposed designs. Rendering by Scott Simons Architects.*

## SITE DESIGN

### Design Relationship to Site

Individual building developments shall demonstrate a reasonably unified design relative to other building developments and common areas within the park. Compatibility of design shall include such elements as building architecture and layout (see Building Design Standards), pedestrian and vehicular circulation plans, design of open spaces, drainage, topography, vegetation and preservation of natural features. Integration of open spaces and natural features may be achieved by incorporation of outdoor amenities for the benefit of users of the site, such as outdoor seating areas, trash and recycling receptacles, and interconnectivity with adjacent trail networks.

### Stormwater Management and Site Design

Low impact stormwater management and site design shall seek to mimic the existing site hydrology by limiting piped infrastructure, limiting increases to the steepness of site grades, and maximizing surface stormwater conveyance and treatment through the use of gravel wetlands. Stormwater management design shall seek to maintain the natural wetland hydrology of the site through the addition of constructed gravel wetlands, underdrained soil filters, pervious roadway base (rock sandwich), and drainage channel protections. Stormwater management design shall consist of curb cuts with surface flow to sediment forebays, followed by gravel wetlands or underdrained soil filters in place of traditional closed drainage systems.

Stormwater management and site design shall limit disruption of natural hydrology by reducing impervious cover and managing stormwater runoff through a stormwater management plan focused on maintaining natural hydrology, treatment of the water quality volume (as defined by Maine DEP), and stream channel protection. Stormwater management design shall manage runoff rate from storm events which contribute to stream channel erosion, such as the 1 and 2 year, 24 hr rainfall events. The post development runoff rate will match the pre-development rate.

Site design, good housekeeping plans and site maintenance plans should consider reducing or eliminating sources of contaminants and reducing pollutants from stormwater runoff. Site design may seek to maintain surface hydrology through means of pervious layers below roadways, driveways or parking lots in lieu of traditional, closed pipe culverts, which channelize flow. Site design shall seek to avoid or minimize impacts to the natural, wooded wetlands that encompass much of the site. Site design should seek to implement pervious surfaces, be it by reducing paved areas or by utilizing pervious hardscape technologies (pervious pavements, pervious pavers).



*Horizontal sunshading reduces solar gain and planting softens and cools the hard surfaces of the pedestrian walkways and parking.*



*Parking lots will slope to gravel wetlands with open drainage channels. Image Courtesy of New York MTA.*



*Rendering of the PTPD looking south towards building unit area 4 and gravel wetlands on the right.*



*Planted gravel wetlands along the road edge will serve to capture and filter runoff and the native trees and landscape will be largely preserved.*



*Stormwater treatment wetland, Photo Courtesy of Stormwater Magazine.*



*Constructed wetland for stormwater treatment; Town of Acton, MA; design by Woodard & Curran Inc.*

## Materials or Wastes

No materials or wastes shall be deposited on any area of the site in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All stumps and debris generated by site clearing activities shall be utilized on site for temporary erosion control measures or immediately removed and reused offsite to the maximum possible extent. Building construction contractors shall develop a construction debris sorting and recycling plan. Building construction debris shall be recycled to the maximum extent practical.

Building tenants shall develop or implement existing recycling programs, and shall be responsible for contracting with a waste management service that provides recycling programs for paper, metal and plastic waste streams.

Building tenants shall develop and implement pollution prevention programs. Pollution prevention activities should include sweeping of paved areas (minimum of twice per year), minimization or elimination of the use of fertilizers, pesticides or herbicides on landscaped areas, strategic winter deicer use, and safe and sheltered outdoor material storage.

All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be stored in enclosed containers.

## Soil Erosion and Sediment Control

Reduce pollution from construction activities by controlling soil erosion, waterway sedimentation and airborne dust generation. This should be accomplished by following the erosion and sedimentation control plan developed for the overall site, in addition to the latest Maine DEP approved erosion and sediment control measures. Frequent, documented inspection of erosion and sediment control measures during construction shall be required in accordance with local and state regulations.

## Traffic

Development proposals shall identify all proposed traffic controls (signage and striping), traffic-related pedestrian features, parking areas, and interior traffic circulation for each building site if the layout of the site differs from the permitted PTPD plan. A Traffic Movement Permit exists for the PTPD, and was based on an anticipated traffic generation for the full build-out of the permitted PTPD site. Development proposals shall modify the overall PTPD Traffic Movement Permit if the anticipated traffic generation numbers for any individual development site exceed the anticipated pro-rata share of the traffic forecast for the full site in the Traffic Movement Permit.



Examples of pervious pavers.



An example of acceptable light poles, furniture, sidewalks, and landscape design.

## Parking Lots

Parking lots should be carefully integrated into the Development with respect to site access, building access and landscape qualities. Parking spaces should be designed to reduce impervious surface area as much as possible, and provide, where possible, preferred parking for low-emitting and fuel-efficient vehicles for 5% of the total vehicle parking capacity of the site. Confirmation via a parking analysis is required to justify the development of the maximum number and associated size (ranging from 8'-2" x 18' to 9' x 18') of parking spaces as approved and shown in the subdivision plat and overall site plan, which is different for each building unit but generally between 3-4 spaces/1,000 square feet of building area.

Reduce heat islands to minimize impact on microclimate and human and wildlife habitat. Consider providing any combination of the following strategies for 50% of the site hardscape (including roads, sidewalks, courtyards and parking lots): Shade (within 5 years of occupancy), paving materials with a solar reflective index (SRI) of at least 29 and/or open grid pavement system.

## Sidewalks

Development proposals shall include internal sidewalks, illustrating the manner in which the developer will provide this amenity to take advantage of the topography and natural features of the site. Internal site sidewalks shall seek to limit impervious surface ratio while providing safe egress, maintaining appropriate desire line pathways, and enhancing building entrances, as applicable to each building development area. Design of sidewalks should consider use of pervious pavement products, such as pervious concrete or pervious pavers as they reduce sheet flow at the extremities of the parking lots by allowing rain to permeate the ground evenly across the walkway.



Rendering of the entry to the PTPD with building unit area 1 to the left, demonstrating the intent of the landscaping and sidewalks. The tall grasses and boulders to the right show the intended look of the proposed gravel wetlands. Rendering by Scott Simons Architects.



*An example of subtle yet strong and beautiful lighting and signage.*



*Pedestrian walkways should be lit with bollard type fixtures (right) and parking areas should be lit with pole mounted down-lights (left).*



*Parking lot lighting should be pole mounted and shine in a downward direction.*

## Bicycle Racks

Encourage reduction in pollution and land development impacts from automobile use. It is required to provide bicycle parking in accordance with city standards. Shower and changing facilities in the building are encouraged.

## EXTERIOR LIGHTING

Lighting strategies should seek to provide efficient, safe light levels, good color quality light, and minimal light pollution. Development proposals shall identify the location and style of lighting to be used in the development, and shall be accompanied by a lighting photometric plan in accordance with City Site Plan Review requirements. All roadway, driveway and parking areas shall be required to provide a light fixture of the same make, model, pole type and base design as the fixture chosen for the main access roadway (not selected at this time). Sizes can vary to accommodate specific use requirements.

All lighting fixtures shall be hooded or shielded so that the light shines downward. Efforts shall be made to minimize light trespass from the building and site, reduce sky-glow to increase night sky access, improve nighttime visibility through glare reduction and reduce development impact on nocturnal environments. The use of low energy or LED fixtures is encouraged. Light color should be uniform. The use of high pressure sodium lights is not allowed. All exterior lighting shall conform to the Site Lighting Standards of the City of Portland Technical Manual.

Light fixtures associated with the building and walkways should be of a style and height that enhance the architectural character of the buildings. Illumination of parking lots with large flood lights mounted on the building is not allowed; small, pole mounted fixtures along the edges of the lots are encouraged, and taller pole mounted fixtures will be allowed provided they meet the applicable standards of the City of Portland's Technical Manual. The objective is to provide a more even illumination, less glare, more security, and be more in scale with the desired character of the PTP Campus.

Pedestrian pathways should be illuminated with lamp post or bollard type light fixtures, of a scale and character in keeping with the size of the pathways they are serving.

Entrance way lighting should develop in a hierarchical way, with primary entrances receiving higher quality and quantity of illumination, to reflect their relative importance.

Landscape lighting can be developed to supplement other lighting, and can enhance the character of the PTP Campus. Overall, the exterior lighting should enhance the architecture and the landscaped environment, be placed in an orderly way throughout the Development to reinforce the building and pathway patterns, and harmonize with other signage and site furniture to contribute



*Examples of acceptable signage.*



*An example of a parking lot which is integrated into the landscape. The use of grass lawns is discouraged, however.*



*Rendering of the PTPD looking towards building unit areas 6 and 7 with gravel wetlands in the foreground. Rendering by Scott Simons Architects.*

to the desired appearance of the PTP campus. It should help attain a safe, attractively illuminated nighttime environment that complements the appeal of the daytime environment.

## SIGNAGE

Development proposals shall identify all proposed signage. Signs shall be designed in proportion and constructed of permanent materials and shall be coordinated with the building and landscaping design through the use of appropriate materials and finishes. Well-designed signage is encouraged in the Development, both in front of the building and on the building, as allowed by the City's existing ordinances. The use of raised metal letters, individual metal letters, and etched masonry or wood is encouraged; surface mounted plastic letters and interior-lit box signs are not allowed. Signs should be illuminated at night either from behind the raised lettering or with focused floodlights.

## LANDSCAPING

Development proposals shall include a landscaping plan and maintenance program developed by a licensed Landscape Architect in the State of Maine. The landscaping plan shall be developed in conformance with the landscaping and landscape preservation standards outlined in the City's Technical Manual and Land Use Ordinance. All developed land areas not covered by structures, parking areas or circulation facilities shall be landscaped and maintained. In order to soften the visual impact of large expanses of pavement in parking lots, vegetation shall be planted or retained where feasible on islands or planting strips. Each building development is encouraged to provide vegetation within the developed areas of their site matching to and blending with the natural woodland features of the adjacent, undeveloped areas.

Maintained lawn areas and non-native tree and plant species are discouraged. Mulched and planted areas, wildflower and conservation mix grasses and native plant and tree species are encouraged. The use of low water demand plantings is encouraged, so far as they are sited properly and can thrive in the soils and site conditions of the property. Further, each parking area shall be required to provide landscaping as outlined the City of Portland's Code of Ordinances.

If maintained lawn areas are desired, these areas should be managed in a way to maximize soil and turf health. Lawn management should follow the guidance of the Maine Yardscaping partnership (<http://www.yardscaping.org/>).

## BUILDING DESIGN STANDARDS

### Building Massing and Form

The Master Plan envisions a series of one story and two story buildings developed along a curving roadway, as illustrated in the Site Plan, with natural, open space between them. All buildings should be oriented within 15 degrees of true south, to maximize their solar orientation. Rectangular footprints are encouraged, with the long sides of the rectangle facing south to maximize the opportunities for solar shading and passive solar heat gain.

Simple building forms of a contemporary style are envisioned, that sit calmly on their sites that will foster a cohesive setting for the campus. Natural colors and materials are encouraged as in the above example of the Cascon Headquarters which has a vernacular form with modern fenestration and details. It is a simple, strong volume with thoughtful detailing to control water, snow and sun. Tacked on architectural features used to mimic an architectural style such as the example to the left is discouraged. It is a poor reference to classical architectural forms and motifs which have little to do with the function of the building or to contemporary architecture.



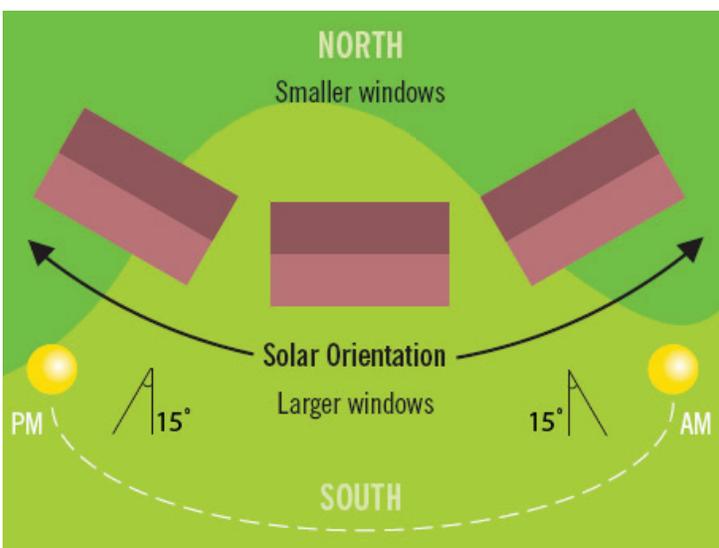
*Cascon Headquarters by Scott Simons Architects in Yarmouth, ME*



*This type of office building is discouraged in the modern PTPD. It is a poor reference to classical architectural forms and motifs which have little to do with the function of the building or contemporary architecture.*

### Zoning Standards

Each building site shall meet the zoning requirements as identified within the Office Park Zone, Chapter 14 – Land Use, in the City of Portland City Code of Ordinance. Buildings shall not be greater than 55 feet in height; front yard (50'), side yard (25') and rear yard (50') setbacks between a building structure and the property line of the overall site parcel shall be maintained; pavement setbacks (15') between paved surfaces and the property line of the overall site parcel shall be maintained; a minimum number of parking spaces of 2.5/1,000 sf of building space shall be provided. The parking requirement may be waived upon review and approval by the planning authority if the building tenant can demonstrate that an alternate parking demand is anticipated for a particular building use. Reduction of paved parking areas is encouraged. See Parking Lots section of this document for further information.



*Proper solar orientation with the long side of the building facing south allows for solar gain in the winter months and opportunities for sun-shading on the south side in the summer.*



*The Chestnut Street Lofts in Portland by TFH Architects blends corrugated metal cladding with rich masonry for a high quality exterior envelope. Careful detailing is essential to make this successful. Note calm and cohesive color palette.*



*The use of split face CMU such as in this generic building is not allowed. Note lack of relationship to the local climate and built environment.*



*JSA Architects' entrance to the Maine Med building successfully attracts visitors to its entrance and allows you to experience the interior from the sidewalk. Patterning within the masonry and a blend of metal and glass give the modern entry distinction.*

## BUILDING ENVELOPE

### Exterior Siding

A wide variety of exterior siding materials is acceptable within the development. The goal of the Master Plan is to achieve an overall sense of continuity, quality, and durability, as well as innovation. The use of modern and “high tech” materials is encouraged, provided they are well designed and detailed. Exterior wall assemblies must meet or exceed the Maine Uniform Building and Energy Code.

Brick is a classic exterior building material in New England and can be used for the buildings in the PTP Development. Other masonry products in contrasting or non-contrasting colors or textures, such as precast concrete, granite, terra cotta tiles, etc. may also be used either in conjunction with brick or as the primary exterior material. Exposed concrete block and split faced concrete block is not allowed.

Metal (Alucabond, Alpollic or equivalent) and synthetic (Trespa or equivalent) wall Panels and fiber cement siding (Hardiplank, Cemplank or equivalent) are acceptable for the exterior siding material, provided they meet the durability goals of the Development. These materials are frequently used as a “rain screen”, which is encouraged in the Development. Corrugated metal panels (PacClad or equivalent) are also acceptable, provided they are used in a way that does not make the buildings appear to be “industrial”. Metal trim, copings, fascias, etc. are acceptable, provided the character and colors are compatible with the exterior siding material(s) and in keeping with the intent of the Master Plan.

The use of wood siding is acceptable provided it is properly treated for long-term durability. The use of painted wood siding is discouraged, because of its maintenance requirements. Vinyl siding may not be used.

High performance glass “curtainwalls” and/or “storefront” systems can be used as an exterior siding material, provided they exceed the Maine Uniform Building and Energy Code by 10%.

### Windows

Minimum standards include double glazed high performance windows, with an all-window R-value which meets or exceeds the Energy Code (current code is 0.35 U-factor). High performance, double glass wall construction is encouraged, as are other innovative ways of using glass that achieve these performance goals.

Exterior window finishes can be aluminum, fiberglass, natural wood (provided they have a durable finish), and painted steel. Window frames shall be thermally broken for increased R value. Solid vinyl windows are not allowed. Highly reflective or mirrored glass may not be used. Visible Light Transmittance is encouraged to be 72% or better.



*Natural wood siding can provide a great sense of warmth in combination with metal roofs, structure and sun shades. A dynamic and beautiful landscape grounds the building and enlivens the pedestrian edge.*  
-Cascon Headquarters in Yarmouth, ME by Scott Simons Architects

Horizontal sunshades or overhangs are recommended to cover 75% of the windows on the south exposure of the building. The exterior sun control devices should prevent direct sun penetration at noon during July and August. Vertical sunshades are encouraged on the west exposure to control solar heat gain during July and August. Properly designed shading devices will allow the sun to enter during the winter months and block the sun during the hottest months.

## Entrances

Entrances must be visible from the street or entrance drive to the property. Covered entrances are required to provide a transition into the building from the rain, snow and wind. Roof canopies, roof projections, and/or recessed doors are encouraged; vestibules with inner and outer sets of doors are strongly recommended, to manage heat loss at the entrance. Walk-off mats or grills are recommended in the vestibule to reduce the amount of dirt and moisture brought into the building.

## Roofs

Roofs may be sloped or flat. Flat roofs should be single ply membrane type with a minimum pitch of 1/4 inch per foot. Pitched roofs must be minimum 25 year, "architectural grade" fiberglass shingles, or a standing seam metal roof or another equally durable material which meets the design goals of the Development.

As a means to reduce the "heat island effect" and reduce cooling loads, roofing material is encouraged to have a Solar Reflective Index (SRI) of minimum 29 where the pitch is greater than 2:12. Where the roof is less than or equal to a 2:12 pitch, it is encouraged to be SRI 78 or better. "Green roofs" are encouraged, to help manage stormwater run-off from the roof and reduce "heat island effect".



*The Design Guidelines encourage green roofs such as these examples in Portland. Left: Bayside Apartment Building. Right: East End School by Stephen Blatt Architects.*

## Exterior Trim and Detailing

Exterior trim shall be designed to complement the exterior siding of the building. Masonry, metal, wood and synthetic materials may be used provided they are well detailed, durable, and appropriate for the development. Drip edges, copings, flashings, and other metal trim pieces associated with the roofs should be the same finish and color as the metal roofing material so as to appear as a cohesive element.



*Flashing and trim details should have clean lines and carefully articulated edges.* -Waynflete School Arts Center by Scott Simons Architects.



Photovoltaics at Portland's East End School. -Stephen Blatt Architects

## ENERGY & ENVIRONMENTAL STANDARDS

The goal for the Development is to encourage innovation, high quality, and high performance in all the buildings built in the PTP Campus. To achieve their energy objectives, the City has established a Green Building Code. They also encourage innovative proposals that will help make the campus a leader in sustainable development.

### Building Materials

The use of environmentally friendly products in the design and construction of all buildings in the Development is encouraged. Building materials shall be selected to insure the use of products with the lowest environmental impact, wherever possible. Life cycle cost data, highest possible recycled material content, readily renewable resources (bamboo, wheat board, etc.), locally sourced materials, lowest VOC rating, highest energy efficiency, and other factors shall be analyzed in all recommendations for the selection of materials and systems for all buildings in the Development. Materials shall conform to the standards set forth in the Maine Uniform Building and Energy Code.



Spray foam insulation creates a tight thermal envelope with minimal air leakage.



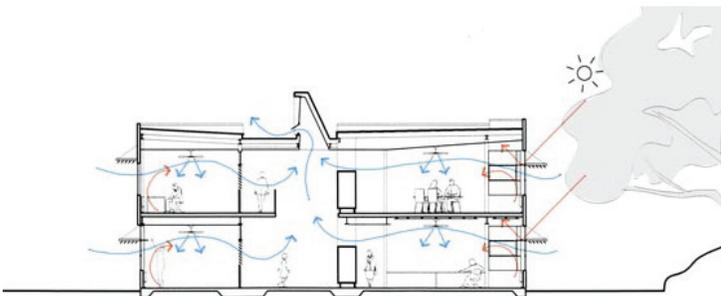
Waterless urinals significantly reduce water use.

### Exterior Envelope Thermal Performance

Wall and roof assemblies shall meet or exceed the Maine Uniform Building and Energy Code. It is recommended that roof assemblies be a minimum of R-49 (Code: R-38) and wall assemblies be R-30 (Code: R-21) or greater.

### Water Conservation

The use of dual flush toilets, ultra low flow or waterless urinals, motion sensors for all faucets, and other water saving features are recommended. The use of graywater and rain water harvesting for irrigation and toilet flushing is encouraged. This will reduce the long term utility costs to the owner and the impact on the public water and sewer systems.



### Shading Devices and Ventilation

Solar shading devices are encouraged on a minimum of 75% of south facing windows. See section "Windows" on pages 11 and 12 for further requirements. Solar shading devices and operable windows allow views and natural ventilation while keeping the sun's heat at bay. Providing a way for built-up hot air to escape at the top of the building allows for a "stack effect" to occur, bringing in fresh air from the windows and allowing the heated air to flow upwards and out the vent or operable window. These techniques foster a healthy and comfortable work environment with minimal heating and cooling loads. See adjacent diagram and examples.



An office building example in Auckland, NZ by Architectus uses operable windows and solar shading devices to naturally control the indoor air quality.



*Appropriate natural daylighting significantly reduces the need for lighting and its associated energy consumption which lowers operational costs. -Rare Headquarters in England by Feilden Clegg Bradley Studios*



*Rooftop photovoltaics can offset the building's energy consumption and put energy back into the grid. -NASA Sustainability Base by McDonough + Partners*

## Lighting

Lighting electrical loads account for approximately 25% of the energy use of commercial buildings. Careful attention to reducing the watts/SF of development will go a long way towards reducing overall energy consumption. Appropriate use of natural daylighting and occupancy sensors can significantly reduce electrical loads.

The use of energy efficient LED and/or florescent light fixtures is highly recommended, not only to meet the State's energy code but to meet the goals of the PTP Campus.

## Mechanical Systems

The mechanical systems shall be designed to minimize energy consumption and maximize human comfort throughout the range of operating conditions. While the most important part of energy conservation comes in a well insulated and tightly sealed building envelope, the design of the HVAC system is critical to meeting these goals and the City's Green Building Code.

## Alternative Energy

Renewable energy use is encouraged as a means to decrease the use of fossil fuels and the release of harmful gasses and toxins into the environment. Many systems have a short pay-back time line and will significantly decrease the annual operating budget of the building. The use of photo-voltaic cell arrays to power the building is encouraged, both on the building and remotely located from the building as site constraints allow. The use of solar hot water roof panels is also encouraged, to generate hot water for use in the building. Rooftop mounted panels are acceptable.

## CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN PRINCIPLES

Development proposals shall be designed incorporating Crime Prevention Through Environmental Design (CPTED) principles, as outlined in the City's Technical Manual. Development proposals shall create formal and informal natural surveillance networks on the site to increase on-site visibility and the safety of legitimate users and to deter potential offenders.

### Physical Features

The placement and design of physical features shall maximize visibility to allow for surveillance opportunities to and from site features such as entrances and exits, walkways, assembly areas, corridors, stairways, windows, parking lots, landscaping, fences or walls, and any other physical attributes.

### Lighting

The lighting of the site and building shall meet the lighting guidelines of this document, the City's technical standards for site lighting, and shall enable users to observe movement and activities on the site during the day and at night. Motion sensor activated lighting is permitted to provide adequate illumination of the site at night while still complying with applicable lighting curfew standards. Specifically, the lighting plan should satisfy the following criteria:

Create nighttime illumination of pedestrian travel paths and gathering areas, entrances and exits, and parking lots by achieving the following:

- Provide a clear view of an area from a distance and enable anyone moving in or immediately around it to be easily seen.
- Deny potential hiding spaces adjacent to existing and proposed pedestrian travel routes.
- Permit facial identification at a distance of at least 30' and create the perception of being identified.

### Mechanical Surveillance Systems

If necessary, mechanical surveillance systems such as CCTV may be installed to monitor areas not easily observed such as parking lots and garages.

### Access Management

Development proposals shall be designed to provide visible pathways and to offer proper guidance for legitimate users to access the site and to discourage unauthorized use of the site.

## Orientation and Wayfinding

Development proposals shall be designed so that the layout, features and/or signage clearly guide the movement of vehicles and pedestrians along safe and predictable paths both during the daytime and nighttime. Specifically, the development proposals shall satisfy the following criteria:

- Placement of signage, lighting fixtures, landmarks, and landscape design features shall clearly guide users to and from the facility.
- Site features shall be designed to avoid the creation of entrapment zones that afford users no opportunity to escape or retreat from an approaching hazard.

## Mechanical Access Control

If necessary, mechanical access control systems may be implemented such as assigning personnel at key building entry points or establishing other procedures such as mechanical auto closing devices, key cards, gates and other locking devices.

## Territorial Reinforcement

Proposed developments shall be designed to clearly delineate private, semi-private, and public space.